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TERMINATION OF THE TREATY OF 1832 BETWEEN THE UNITED STATES AND RUSSIA

HEARING

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS

OF THE

HOUSE OF REPRESENTATIVES

MONDAY, DECEMBER 11, 1911

COMMITTEE ON FOREIGN AFFAIRS

[Committee room, gallery floor, west corridor. Telephone 230. Meets on call.]

1. WILLIAM SULZER, *Chairman*, of New York.
2. HENRY D. FLOOD, of Virginia.
3. JOHN N. GARNER, of Texas.
4. GEORGE S. LEGARE, of South Carolina.
5. WILLIAM G. SHARP, of Ohio.
6. CYRUS CLINE, of Indiana.
7. JEFFERSON M. LEVY, of New York.
8. JAMES M. CURLEY, of Massachusetts.
9. JOHN CHARLES LINTHICUM, of Maryland.
10. ROBERT E. DIFENDERFER, of Pennsylvania.
11. W. S. GOODWIN, of Arkansas.
12. CHARLES M. STEDMAN, of North Carolina.
13. EDWARD W. TOWNSEND, of New Jersey.
14. B. P. HARRISON, of Mississippi.
15. DAVID J. FOSTER, of Vermont.
16. WILLIAM B. MCKINLEY, of Illinois.
17. HENRY A. COOPER, of Wisconsin.
18. IRA W. WOOD, of New Jersey.
19. RICHARD BARTHOLDT, of Missouri.
20. GEORGE W. FAIRCHILD, of New York.
21. N. E. KENDALL, of Iowa.

[Revised edition.]

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[H. Res. 345, Sixty-second Congress, second session.]

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
December 21, 1911.

Resolved, That there be printed for the use of the Members of the House of Representatives five thousand five hundred copies of the hearings before the Committee on Foreign Affairs on House joint resolution 166, providing for the termination of the treaty of eighteen hundred and thirty-two between the United States and Russia.

Estimated cost, $500.

Attest: SOUTH TRIMBLE, *Clerk.*

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TERMINATION OF THE TREATY OF 1832 BETWEEN THE UNITED STATES AND RUSSIA.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Monday, December 11, 1911.

The committee met at 10 o'clock a. m., Hon. William Sulzer (chairman) presiding.

The CHAIRMAN. The hearing this morning is on the House joint resolution No. 166, as follows:

JOINT RESOLUTION Providing for the termination of the treaty of eighteen hundred and thirty-two between the United States and Russia.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the people of the United States assert as a fundamental principle that the rights of its citizens shall not be impaired at home or abroad because of race or religion; that the Government of the United States concludes its treaties for the equal protection of all classes of its citizens, without regard to race or religion; that the Government of the United States will not be a party to any treaty which discriminates, or which by one of the parties thereto is so construed as to discriminate, between American citizens on the ground of race or religion; that the Government of Russia has violated the treaty between the United States and Russia, concluded at Saint Petersburg December eighteenth, eighteen hundred and thirty-two, refusing to honor American passports duly issued to American citizens, on account of race and religion; that in the judgment of the Congress the said treaty, for the reasons aforesaid, ought to be terminated at the earliest possible time; that for the aforesaid reasons the said treaty is hereby declared to be terminated and of no further force and effect from the expiration of one year after the date of notification to the Government of Russia of the terms of this resolution, and that to this end the President is hereby charged with the duty of communicating such notice to the Government of Russia.

By the arrangement with the gentlemen who appear here from out of town and have agreed upon the list of speakers to address the committee, the first speaker will be Mr. McAdoo.

STATEMENT OF MR. WILLIAM G. M'ADOO, OF NEW YORK, PRESIDENT OF THE HUDSON TUNNELS.

Mr. MCADOO. Mr. Chairman, I will not consume much of the time of the committee, my purpose being simply to present to you the resolutions adopted at a mass meeting of the citizens of New York on the evening of December 6, 1911. In doing so I should like to say for your information that that meeting was composed of representatives of every class of American citizens. It was not confined by any means to American citizens of the Jewish faith. That great auditorium was packed from pit to dome by an unusually intelligent and discriminating audience, one which was intensely in earnest,

and the action taken on that occasion, we are confident, we may say represents accurately the feeling of the American people on the subject.

Those resolutions, which are embodied in this printed pamphlet, I beg to submit to the committee. In this pamphlet is also included the speeches made on that occasion by some of the men who have distinguished themselves in American life. Among them were President Andrew D. White, United States Senator James A. O'Gorman, Hon. William R. Hearst, Bishop David H. Greer, Gov. Woodrow Wilson, Speaker Champ Clark, President Jacob Gould Schurman; Congressman N. E. Kendall, of Iowa; Congressman William Sulzer, Congressman Herbert Parsons, of New York; Congressman William G. Sharp, of Ohio; Congressman Francis Burton Harrison, of New York; Hon. William S. Bennet, Congressman William M. Calder, of New York; and Congressman Henry M. Goldfogle, of New York.

The question presented for your consideration is one with which you are so familiar that it scarcely needs presentation on my part. For 40 years Russia has disregarded, as we think, the plain stipulations of this treaty. She has undertaken to apply a rigid test to American citizens seeking to enter Russia.

We do not believe that this Government can afford to submit to any such test as applied to any part of its citizens. We believe that every American citizen, whatever his antecedents, is entitled to the benefits of a treaty made for every American citizen and every class of American citizenship.

The Government of the United States has on its part strictly observed the obligations of their treaty, and Russia alone has been derelict in performance.

It seems that when an American citizen presents a passport to the Russian consul general in New York or in any foreign capital for a visa he is immediately asked what is his religion. There are a few other questions also asked, but that seems to be the important one. The minute he confesses that he is a Jew the visa is refused and discrimination is at once made against a certain part of our citizens—a very large and important element of our citizens.

Our diplomatic history is full of protests on the part of this Government against this discrimination. Large efforts have been made to get Russia to recede from a position which is utterly and wholly untenable, but without success.

The time has now come when we believe that this committee and Congress should take a firm stand on this question and should insist that Russia either live up to the treaty or that it be abrogated. We do not believe that any satisfactory result is going to be accomplished any other way.

There is no feeling of hostility, I believe, on the part of the American people generally. We can say with confidence, I think, that there is no feeling of hostility, generally, against Russia.

This movement is not conceived or pushed in any unfriendly spirit to any nation. Our particular ground is that this Nation can not afford to have treaties with any nation that does not recognize the rights of American citizens. We can not afford to have treaties and maintain them with any power that does not concede at once that every American citizen, whatever his race or creed, is entitled to the full benefit and full protection

ay say The constitutional questions involved and the legal aspects of the
n th case and the interpretation of the treaty I will leave to some other gentleman who is more familiar with the subject than I am.

Mr. GARNER. What powers has Congress in reference to the abrogation of this treaty?

Mr. MCADOO. I understand that it has every power. It has the right to abrogate the treaty upon 12 months' notice.

Mr. GARNER. Has Congress that right, or the President? What are our powers and what are our duties in the premises?

Mr. MCADOO. I have my own views, but I prefer to let Mr. Marshall, who has made a profound study of this question, answer that inquiry when he speaks, as he will do. We have left that part of the argument to Mr. Marshall, because he has familiarized himself with the question fully.

I beg to submit the resolution adopted at the mass meeting in New York, to be made a part of your proceedings.

The CHAIRMAN. Without objection, that may go in.

(The proceedings of the mass meeting referred to are as follows:)

RUSSIA AND THE AMERICAN PASSPORT.

[Report of the proceedings of the mass meeting held at Carnegie Hall, New York City, Wednesday evening, Dec. 6, 1911, under the auspices of the National Citizens Committee, 30 Church Street, New York City.]

The following resolutions were read by James Creelman, Esq., and unanimously adopted by the mass meeting held at Carnegie Hall, Wednesday evening, December 6, 1911:

"Since the establishment of the Government of the United States all of its citizens, whether native born or naturalized, irrespective of race or creed, have been uniformly recognized as entitled, under the Constitution, to equal rights, privileges, and immunities, to freedom from all discrimination, and to absolute exemption from the imposition of any religous test.

"The deprivation of any part of our citizens of any of these guarantees, the withholding from the lowliest of them of any of the rights accorded to the most distinguished, or the division of our citizenship into classes, is so opposed to the spirit of our institutions as to be unthinkable. And yet, what can not be accomplished directly by the Government has for more than 30 years been effectuated with respect to our citizens by the Government of Russia, which, in the face of the continued protest of our State Department, has deliberately disregarded passports issued under our Great Seal to American citizens who happen to be Jews, Roman Catholics, and Protestant missionaries, solely because of their faith.

"This has, with singular unanimity, been declared by our statesmen, jurists, and legislators to constitute a defiant violation of the treaty made between the two great Governments in 1832.

"For 30 years all efforts of diplomacy to remedy this wrong, to obviate this affront to our national honor, to procure for all our citizens their stipulated rights, have been in vain. The Republican and Democratic parties alike have for years demanded in their platforms a cessation of this abuse, and both have promised prompt action for the vindication of the integrity of American citizenship. Nevertheless, a considerable portion of our citizens continue to suffer from the civil disabilities created by Russia's breach of her treaty obligations.

"Our Government has exercised great self-restraint, and the American people have evinced extreme patience in the hope that Russia might be induced, by representation and argument, to respect the terms of her compact. Relief, however, seems to-day as remote as when it was first desired. Believing, therefore, that the time has at length arrived when all other considerations must yield to the sacred rights of American citizenship, and the preservation of our cherished institutions, it is

"*Resolved*, That this meeting, called by representatives from every part of the Union, and reflecting every shade of public opinion, urgently request the

Congress of the United States at its present session to adopt the resolutions now pending in the Senate and House of Representatives, looking to the abrogation of the treaty of 1832 between the United States and Russia, by giving one year's notice of its termination, pursuant to its expressed provision, to the end that our country, at least, shall no longer behold with equanimity, a classification of its citizens, which, if ripened into a precedent, would eventually undermine that political system which has made it the greatest moral power of the earth. Be it further

"*Resolved*, That the National Citizens Committee be continued until the end for which it was organized has been accomplished."

The meeting was opened with a prayer by the Rev. John Dixon, secretary of the Presbyterian Board of Home Missions.

ADDRESS OF CHAIRMAN WILLIAM G. MCADOO.

Ladies and gentlemen, a few weeks ago an eminent American citizen, a man of exalted character, an archbishop of the Roman Catholic Church, left these shores for Rome. He needed no passport to enter Italy. But suppose that he had been going to Russia, do you know what would have happened to him?

He would first have made an application to the Secretary of State at Washington for a passport, and in it he would have been obliged to state his age and height, the type of his forehead, the color of his hair and eyes, the size of his mouth and certain facial characteristics; but nowhere does our Government ask his color, his race, or his creed.

The Secretary of State would have sent him a passport, saying: "I, the undersigned, Secretary of State of the United States of America, hereby request all whom it may concern to permit ———, a citizen of the United States, safely and freely to pass, and in case of need to give him all lawful aid and protection."

The great seal of our country affixed to that passport is represented by an American eagle holding in one outstretched talon an olive branch, denoting peace and friendship, and in the other a quiver of arrows, denoting majesty and power and implying tnat every resource of the Nation will be employed for the protection of the citizen who holds and rightfully uses that passport.

You would suppose that all the archbishop would now have to do would be to take the steamer for Russia; but, no. He must request the Russian consul general in New York to visé that passport.

The Russian consul general will ask what is his religion and occupation. The moment he confesses that he is a Catholic prelate, visé is refused, and the archbishop is denied admission to Russia. If the passport be presented by a Jewish-American citizen, however eminent, the result will be the same.

By one stroke of his pen, or with one monosyllabic word, a subordinate Russian official on American soil makes the great seal of the United States as meaningless as a piece of blank paper and annuls an express provision of the treaty between the two countries, made as far back as 1832, which declares:

"The inhabitants of their respective states shall mutually have liberty to enter the ports, places, and rivers of the territories of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories in order to attend to their affairs, and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

Nowhere does it say that Russia may exclude from its benefits certain classes of American citizens. Nowhere does it say that Russia may tell an American citizen with an American passport that he can not enter Russia because that American citizen happens to be a Jew or a Catholic priest or a missionary. Nowhere does that treaty give the United States Government the right to practice similar discriminations against Russian citizens. Russia is under the most solemn compact, because a treaty is the supreme law of the land, to accord to every American citizen, without regard to creed or race, who bears an American passport the right to "sojourn and reside in all parts whatsoever" of Russian territory, on condition only of "submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

Sojourn and residence can only be accomplished by entry upon Russian soil, and yet Russia denies to a large part of American citizens the right to even cross the frontier. We do not seem to interfere with Russia's internal administration, but we do insist upon the right of every American citizen to enter Russia for the purposes of the treaty.

For 30 years Russia observed the treaty and admitted all American citizens to Russian soil. For 40 years she has violated the treaty by refusing to admit certain American citizens to Russian soil. From the date of the treaty our Government has, on the other hand, scrupulously observed every one of its obligations.

The question now presented is, Shall Russia be longer permitted to say what part or what class of American citizens shall enjoy the benefits of a treaty that was made for every part and all classes of American citizens? Or, to put it another way, shall Russia be longer permitted to discriminate against any part or any class of American citizens because of race or creed—to make distinctions between American citizens which our Constitution and our laws forbid, and which are opposed to the essential and fundamental principles of our Government?

The astonishing thing is that our Government has for 40 years submitted to a plain violation of that treaty. Our diplomatic history seems full of protest, but they have lacked the impelling force of determination, and nothing has been accomplished.

This is emphatically not a racial or religious question. While the discrimination affects certain classes only of our citizens, it strikes at the integrity of American citizenship as a whole and impairs the prestige while it affronts the dignity of our Government.

The remedy is not war with Russia. The treaty itself provides a peaceful solution. We have the right, upon 12 months' notice, to abrogate the treaty. Should we not give that notice immediately?

The objection has been raised that a termination of the treaty may injure our trade with Russia. Even should this prove true, greater issues—human rights and the equality of American citizenship—are at stake.

To suggest that commercial considerations are paramount to human rights is to exalt "dollar diplomacy." We have had enough of that. What we want is a return to that glorious diplomacy which prompted the spirited and immortal reply of Ambassador Pinckney to the French Government in 1796, "Millions for defense, but not one cent for tribute." We must not, as the price of Russia's violation of the treaty, deprive millions of American citizens of their rights and stamp them with the opprobrium of inferiority. Every citizen of this country is now and must forever be equal. More than 100 years ago our forefathers established this vital principle, and for its maintenance commerce and "dollar diplomacy" must be subordinated.

Let us temperately, firmly, unflinchingly, make the world understand that every American citizen, duly accredited, is a vitalized American flag, and that wherever the flag goes, every citizen may go with equal security and protection.

This great meeting has assembled to tell the authorities at Washington that the time has come when the American people demand definite action; the protection of every American citizen, whatever his race or creed; the enforcement of every treaty obligation and the vindication of the dignity and prestige of the American Government.

Address of Hon. Andrew D. White, former ambassador to Russia, president of the National Citizens' Committee.

Gentlemen of the National Citizens' Committee and fellow citizens, I have long believed that this day must come and rejoice that I have lived to see it. My hope is that it will prove the dawning day of a great act of international justice.

At two different periods, extending somewhat over three years in all, I have resided at the Russian capital, first in the years 1854 and 1855, and last during the years 1892, 1893, and 1894. I have had occasion to observe the growth of a system in that country which has inflicted, and continues to inflict, upon the United States not only injustice but dishonor.

By the treaty of 1832 between the United States and Russia equal rights were guaranteed fully and explicitly to all Russian subjects by the United States and to all American citizens by Russia, without distinction of race or religion, yet for nearly half a century this solemn guaranty has been violated by Russia

constantly, and, indeed, I think I may say without exaggeration, contemptuously. Jews and Christians have both suffered from this; it has borne at times as severely, though never so frequently, upon American and Christian ministers as upon Jews in general.

It had, indeed, been contended by Russia that the treaty was made subject to certain laws of the Empire then prevailing, so that its most precious guaranties, including those of equal rights, were thereby from the beginning necessarily rendered futile.

This contention I have never believed, nor do I think any thoughtful person has ever believed it. The treaty was made by the Emperor Nicholas I and by James Buchanan, the American minister, and no men ever knew better than they what they wanted and what at any given moment they intended to do. Nicholas had sat upon the throne of Russia at that time for seven years; he was recognized throughout the world as the most autocratic monarch in Christendom. In pride no other modern sovereign ever surpassed him, not even Louis XIV, or Napoleon; he was especially sensitive to the acclaim of the world; never would he have allowed such a treaty to be spoken of in his presence if it had been in the slightest degree at variance with the law of his Empire. It is certain, also, that if any such Russian laws existed nullifying the treaty when it was made he knew it, and in case he knew it he had ample power as the source and center of all authority in the Empire, executive, legislative, and judicial, to waive, or even to abolish it. The fact of his signing a treaty so comprehensive and explicit was proof that he had abolished all laws to the contrary.

James Buchanan, the American minister in St. Petersburg at that time, was then at the height of his intellectual vigor; in the full possession of those faculties which afterwards made him a Senator in Congress, Secretary of State, minister to Great Britain, and President of the United States. No one of his leading contemporaries in American politics was more noted for thorough knowledge of political subjects, and above all, for astuteness. If the treaty was futile from the beginning he knew it and yet sanctioned it, and took his place before the world as its advocate. All that is unthinkable.

The present misinterpretation of the treaty and misuse of it, making that an instrument of oppression which was intended to be a blessing, was, in my opinion, developed many years after it was signed. Our country regards it as a burden and disgrace to us. The question which the American people are now to meet is simply this: "What are we going to do about it?"

Just two courses are presented to us—courses either of both of which we are free to take. Perhaps we can accomplish our wish in one of these ways. If it requires two ways, what is the proper order of them—which way should we take first? And in discussing this question briefly, I wish to appeal neither to your passions nor to your resentments. My appeal shall be, as far as I can make it, to your patriotism and to your plain common sense. I do not mean at all by this to put forward the pecuniary bearings of the matter—that I leave as the very last and least question to be considered. The question I ask is: "How shall we preserve the proper dignity of our country, our sense of pride in it, the rights involved in it, and, as involved in it, the integrity of the American passport as it goes forth from Washington and enters Russia, bearing the signature of the American Secretary of State, representing not only our President, but our entire people?"

Frederick the Great, King of Prussia, who in his day was not only the greatest warrior but one of the wisest statesmen the modern world has seen, once criticized the other great monarch of his time, Emperor Joseph II, who devoted his life to urging reforms throughout his Empire, which proved generally failures. Said wise, old King Frederick: "Joseph means well, but he always takes the second step before he takes the first."

In my opinion, everything in this case depends on whether we start with the first step or with the second. If the first step is taken first I have faith that it will lead to a great triumph of right, reason, and justice, with vast blessings not only to our own country, but to Russia.

You will observe that I say nothing of any third way; yet a third way has been suggested occasionally by men naturally excited over the wrong done us in this matter—namely, war. The reasons why I do not suggest this are many, and, first and simplest of all, because, if we were so foolish as to try war, the two nations can not reach each other at any vulnerable point; it would be like an elephant tryi[redacted]e.

King Henry IV, making a progress through France, arrived one day at the gates of a great city, and to his surprise found there to welcome him, not the mayor of the town, but simply the mayor's substitute. This substitute city functionary addressed the King as follows: "May it please your majesty, there are 10 reasons why his honor the mayor can not meet your majesty on this auspicious occasion. The first reason is that the mayor is dead." At this the King graciously assured the mayor's substitute that he would dispense with the other nine reasons.

In this case there are 50 reasons why Russia and America can not go to war with each other. The first is their relative geographic situation—the other 49 we can dispense with.

My own recollections of Russia go back to the time of the Crimean war, when I saw the allied British and French fleets, the largest which at that time had ever been brought together in human history—over 100 great ships, three and four deckers—looming high over our heads, extending across the Gulf of Finland in front of the Russian fortress at Kronstadt, the northern watergate to the Russian capital. Although the British admiral at that time, during a great public dinner before he left England, had invited his entertainers to dine with him at St. Petersburg, he never himself had even the pleasure of seeing that capital.

It may be said that I forget to state that the allies did overcome Russia in the Crimea, but it must be remembered that they had the aid of the combined armies of Great Britain, France, Italy, and Turkey, and back of these the certainty of an additional army from Austria hard by, if wanted, and all these had what we never can have—access to Russia by land.

The two practicable steps remain, and I will confine myself to them on this occasion.

The first step which we must frequently hear proposed is that of an immediate official abrogation of the Buchanan treaty. The opinion is natural, no one can blame it, it merits respect, it has been urged in the public press and in Congress and by many of our most eloquent and prominent writers and speakers. Bills to accomplish this abrogation of the treaty have already been brought into our National Legislature. No doubt they represent real patriotism. All honor to their advocates! I freely allow that it may be necessary to take this step at some later stage in our effort.

But is it certain that this is the step to take first? Is there not the possibility that King Frederick's remark on Emporer Joseph's reforms might prove true of ourselves? May we not be in danger of taking as a first step that which ought to be taken as a second? May it not happen that should we abrogate the Buchanan treaty Russia would say, "Well, let them go; we can live without a treaty as long as they can. We can worry them as much and as long as they can worry us, and at any rate we shall hear no more of the question of Jewish rights or of the rights of Protestants, of Catholic American clergymen, or, indeed, of American rights, now that no one has any pretext for flinging them into our faces."

Might they not even congratulate themselves upon the financial side of the question? Might not the pill be sweetened for them by the belief, which I observe is shared by a thoughtful American jurist, that all inheritances from Jewish families in Russia to Jewish heirs in America would lapse into the Imperial Treasury?

Gentlemen, as a matter of fact, Russia is a proud nation, as proud a nation as our own. I am not saying that she has as much reason to be proud as we. Every man must judge for himself as to that. I will only say that there are some things done in our country of which I am not especially proud—no doubt Russia is aware of some of them. An attempt at peremptory demands upon her will, in my opinion, lead to exactly that state of mind which peremptory demands always arouse in any proud individual. As a rule, such demands at once dismiss right-reason from the case and lead to indignant rejoinders and reprisals, regardless of all justice.

May it not be better for all concerned that we hold the abrogation of the treaty, for at least a short time, in reserve? May we not find it far better to take this as a second step than as a first step?

At the organization of Cornell University an old friend of mine—a man eminently sound and sane—said to me: "I hear that you are hunting for professors. I don't know much of art, science, or literature, but if you ever establish a professorship of horse sense, I am a candidate for it." By all means in

the present matter let us consult first our good sense rather than our indignation.

I repeat: Russia is, as a matter of fact, one of the proudest countries on earth. She wishes to be well thought of by the whole world, and it is this wish on her part that I would enlist in the service of peace with honor. Russia is always taking great pains to secure the world's respect and good opinion. Shortly before my first stay in Russia she evidently wished to seem to lead in science, and to that end she built one of the most costly observatories in the world, even though, when I visited it, she had none but German astronomers to manage it. Later she wished to be thought great in art, and she had to tolerate the fact—though her press sometimes scolded about it—that the greatest sculptor by far in the whole Empire was a Jew—Antokolski. She has had, indeed, some great writers. One of these I knew—Lyof Tolstoy. It was once my privilege during 10 successive mornings and evenings to walk and talk and sit in discussion with Tolstoy at Moscow, and on one of these occasions he said to me: "I wake every morning surprised that I do not find myself on the road to Siberia." I answered him: "There is no danger of that; the Russian Government is too wise for that—it cares too much for the public opinion of the world."

Russia has had some men famous in the annals of science. She has some now, but she does not, as Germany does, show any especial love for them. But at the same time she is vastly proud to exhibit them to the world, as well she may be.

Nicholas I at times braved public opinion in ways monstrously autocratic, but it was this same Russian sensitiveness to public opinion which led him to prepare for the emancipation of the 40,000,000 serfs, and it was this same awe of the world's opinion which led his son, Alexander II, not only to carry out vast reforms, but to introduce trial by jury and to prepare the way for other great reforms which were stopped, probably for a century, by the idiots who assassinated him.

The world is full of good people who wish to cut down the tree if it does not yield fruit the day it is planted.

May it not be better for us, as our poet sings, that we "learn to labor and to wait," for a time at least, until we find what we can do in that way?

Russia's desire for the good opinion of the world entered very largely into the reasons why The Hague conference was called in the name of the Czar. There is nothing of which all Russians who do any thinking are more proud of than this fact. They are reluctant to allow that Czar Nicholas II derived his ideas which led to his calling the conference mainly, if not entirely, from the Jew, Jean de Bloch. During our talks at The Hague conference Jean de Bloch always pooh-poohed to me any such statement, but there is no doubt in the mind of any man cognizant of all the circumstances that de Bloch's ideas were filtered from his great octavos, through the newspapers, into the imperial mind.

May it not be that this same Russian pride which is and always has been so constant a factor in the development of her civilization will lead her to accept an invitation from us to meet before The Hague tribunal? She is very proud of having helped to create it, and when the facts in the case are fully brought out before it and exhibited to that great tribunal of humanity, before which Thomas Jefferson displayed the wrongs of our thirteen colonies, as incorporated in the Declaration of Independence—that tribunal which Jefferson called "a candid world"—when Russia has to face the question of whether or not she will meet the United States before that Hague world tribunal on this question, and then to face the further question as to whether she will do justice instead of injustice, which she has been doing during a period of over 40 years—injustice of which the facts are absolute and indisputable—may it not be that Russia will then desire to show the world that she proposes to array herself beside the powers which adhere to their treaties?

Will her pride allow her to refuse to appear before that tribunal which she claims to have founded? And if she consents to appear, will her Russian pride allow her to take her place, deliberately, among barbarians? I am not reproaching her; I utter no taunt. We, ourselves, as a nation were rightly classed as barbarians until Abraham Lincoln signed the emancipation proclamation.

There are some strong men in Russia who can see and feel the eternal disgrace which the continued violation of the Buchanan treaty and the spurning of the tribunal in which she glories as her gift to the world would be sure to

bring upon her. I have known such Russians. Typical of such was Admiral Maffaroff, great as a naval warrior, great as a scientist, great as a patriot, great as a man, whom I came to know and admire, not only at St. Petersburg, but at Washington, one of the noblest of men, an admiral of the Russian fleet, who gave up his life in his flagship in the attempt to redeem the honor of Russia during the late Japanese war. No man more devoted to the true glory of his country ever lived.

There are other great Russians now living. One of these I have known, Serge De Witte. He it was who, as Russian minister of finance during the administration of President Cleveland—seeing our Government, as he thought, in need of gold as a basis for its currency, tendered to us millions upon millions of gold—largely in American eagles, on terms eminently fair and reasonable. He it was who saved Russia from humiliation and rendered her such splendid services at the treaty of Portsmouth. These men that I have mentioned are great Russians, and the breed is not exhausted. Others may well arise worthy to be classed with them. Let me give one more fact pertinent to this occasion about De Witte. During my latest stay in Russia, in the year 1893, if I remember rightly, I found on my return from Germany one day that an honored Jewish rabbi of Philadelphia had, during my absence, applied by cable for admission to the Russian Empire. His wish was, and he made no secret of it, that he might study the condition of his co-religionists throughout that Empire. I also found that before my arrival the secretary in charge of the embassy during my absence had laid the rabbi's request before the Russian foreign office and had received a refusal, which had already been telegraphed to the Secretary of State and to the rabbi. I at once visited the foreign office, explained the case to the cabinet minister, showing what a mistake it was on their part to reject so eminent an American citizen. I also mentioned the case to De Witte. In about two weeks, if I remember rightly, the rabbi, Dr. Krauskopf, of Philadelphia, arrived at our legation by way of Finland. I never knew how he got in. Judging from his account, he found no need of a passport. I only know that through some apparently occult influence he arrived without trouble. On thinking the matter over I decided to take Dr. Krauskopf immediately, not to any cabinet minister who would probably be merely a functionary and nothing more, but to a man who "did things," a cabinet minister who was a man, fully occupied, not in keeping place and acquiring pelf, but really devoted to the honor of his country. I took the rabbi to Serge De Witte. When we arrived at De Witte's official residence we found the anterooms of his office thronged with generals and other personages of high degree, but all were put aside. We were admitted at once. De Witte gave Dr. Krauskopf precedence to them all, and also gave him all the time the rabbi wished for discussing the matters the rabbi had at heart. Thenceforth Dr. Krauskopf was apparently persona grata throughout the Empire, especially in the cities of Moscow and Kieff, even though Kieff was at that time ruled with a rod of iron by one of the most fanatical of Jew haters in existence, Gen. Ignatieff. Dr. Krauskopf was allowed to see the people he wished to see, to ask the questions he wished to ask, and finally to return to St. Petersburg and to America when he pleased and as he pleased.

I never had any doubt that it was a noble form of patriotism in Serge De Witte that smoothed the way for the rabbi.

You see, gentlemen, that there are men in Russia who are likely to prize right, reason, justice, and care for Russia's fair fame before the world at The Hague tribunal.

Thanks to the two Hague conferences, that tribunal is now fully established; its judges virtually chosen; its accessories provided for by a bureau of affairs composed of the resident diplomatic agents of all nations at The Hague and presided over by the Netherlands minister of foreign affairs. It is housed in a most beautiful and appropriate palace of justice—the world's courthouse—now approaching completion, the gift, I am proud to say, of an honored American citizen.

My hope is, then, that if Russia be courteously summoned as a sister nation to meet the United States before that august tribunal in the land of Grotius and William of Orange—summoned in the presence of the whole world, and not only courteously, but solemnly—Russia will appear, and my hope is that having appeared and the facts having been fully exhibited to the full view of mankind in the broad light of truth, right, reason, and justice, Russia may show the whole world a triumph of the better and greater qualities of the Russian people over outworn prejudice.

Until such an opportunity is given for such a meeting of the nations, I hesitate to propose any other step. If Russia accepts the proposal which I suggest, I should hope that she would send delegates animated by the spirit of Makaroff and De Witte, and they will either make this treaty good or give us another still better, which she will be proud to lay before the whole world as evidence of her determination to do justice to all American citizens.

We have, fortunately, as the American representative at St. Petersburg at this time, to aid in presenting the preliminary resolution, a man eminent for his acquaintance with public affairs, for high and loyal character, for ability in negotiation, for power to maintain good relations with the nation to which he is accredited, former Gov. Guild, of Massachusetts; and my hope is that this fact also will be a favorable element in the case.

Of course, we should keep in sight the fact that the present dishonor to our country can not continue—that the integrity of the American passport must be restored.

If such a great opportunity in the history of the world shall be refused by Russia then, but not before then, let the Buchanan treaty be abrogated.

I have more than once sustained an argument to prove that the American people, while more devoted to what is called "practical"—that is, to put it plainly, to the love of the dollar and to the struggle for it—than any other people, are at the same time really the most idealistic of all nations. Much as the people of our country love the dollar there are other things which they love and worship vastly more.

During the Civil War when all was dark, when the Nation seemed almost at its last gasp, the Union hopelessly broken, a plain, stalwart American citizen who had devoted himself to business and acquired a large fortune—a man whom I had never before suspected of any idealism, or of any other thought than those on business—said to me: "I am putting all I am worth into the bonds of the United States. I am told that they will be repudiated; that the currency based upon them is worth nothing; that this country is bankrupt, and I confess that at times it looks so to me." Then, raising himself up to his full height, he turned and said: "By the Eternal, if I am not to have any country I don't want any money." That was the spirit of the plain American people then, and I believe that same spirit exists to-day. During the American Civil War the American people sacrificed, when all is accounted for, North and South, fully ten thousand millions and the lives of nearly a million men, and those of the best they had, and they sacrificed all these for an idea—for a Union freed from slavery.

If after trying arbitration it shall be found useless, then let us denounce and abrogate the treaty. There would be large pecuniary loss, but I believe that all Americans worthy of the name would prefer this to the continuance of a treaty which involves American dishonor.

There would have to be adopted a modus vivendi, so that the two great nations could live together without perpetual reprisals on each other, but it would be a woeful exhibition of human folly.

Yet if it must be, let it come. Let not the question of a mere addition or diminution of profitable trade or manufacture prevent maintenance in some fully effective shape of the guarantee which Russia gave us, in which the honor of this Nation is concerned. It must and shall be maintained, but let that be a consideration reserved—let it be reserved—let it not be threatened as a preliminary.

I plead, then, as our first step, for a recourse to The Hague tribunal in order that we may avail ourselves of Russian pride in standing before the world in favor of right, reason, and justice. Should we fail we can then truthfully say that all that men could do we have done, and that we have merited success, even if we have not obtained it; and thus, in the words of Abraham Lincoln when he signed his great appeal to the world for justice, we may commend our cause "to the considerate judgment of mankind and the gracious favor of Almighty God."

ADDRESS OF UNITED STATES SENATOR JAMES A. O'GORMAN.

When the Colonies triumphed over a hateful oppression and achieved their independence as separate States, they established a Government which recognized the equality of all men before the law, and guaranteed the absolute freedom of every form of religious worship. With these principles embedded in the Constitution the fathers of the Republic made a stride in human progress

never before attempted by any people in any land in any period of recorded history. For the first time in 15 centuries the church and state, religion and government, were severed. The country knew neither monarch nor subject, king nor prince, lord nor peasant. We were a Nation of free men, recognizing no sovereignty but the will of the American people. The birth of the Republic was the dawn of a new era of hope for millions who suffered from oppression and persecution in the old lands. They loved liberty and sought our shores, and we gave them an asylum. They became part of our citizenship, and in every decade of our national life they and their posterity have contributed their share of effort and devotion to the growth, development, and prosperity of the Nation. If we would maintain the national honor and remain loyal to the tradition of the fathers, we must adhere to those fundamental principles upon which we have reared this mighty fabric of government. We must ever insist that in the composite citizenship of the Republic there can be no distinction of creed, and that the rights and privileges of American citizens can not be impaired at home or abroad because of religious belief. Our treaties are made for the benefit of all the people of the United States. Under the Federal Constitution they become the supreme law of the land and take precedence of State constitutions and statutes. Being the supreme law of the land, all citizens must yield obedience to their provisions; and yet the present treaty as construed by Russia excludes from its protection 2,000,000 of our citizens solely because of their religious belief.

For 40 years our Government has made unavailing protests against Russia's attitude. During all these years holders of our passports have been degraded and humiliated and the dignity of the Nation has been offended. The treaty requires equality of treatment of all the citizens and subjects of the two nations and we can not without dishonor longer acquiesce in this indefensible policy of discrimination, which is violative of the treaty and in defiance of the laws and Constitution of the Republic. We do not resent this indignity to our aggrieved citizens because they are Jews, but because they are Americans, entitled to the protection of our Government against injustice and wrong everywhere. We are not concerned wth the internal policies of other countries, but we must insist that the right of our citizens to immunity from discrimination on religious grounds must be respected by nations with which we maintain treaty relations. The time to end this intolerable condition has arrived. For myself, I am prepared to vote for the abrogation of the treaty, and to that end I shall support the resolution now pending in the Senate of the United States.

ADDRESS OF HON. WILLIAM RANDOLPH HEARST.

My friends: The object of this meeting, as I understand it, is merely to ask the Government of the United States to do its plain duty. We demand nothing more, and will be content with nothing less.

The first duty of government is to protect the citizen in the enjoyment of his rights and privileges both at home and abroad. The question involved in the rejection by Russia of the passports of American citizens is perfectly simple and perfectly clear. It is so clear that it requires no oratory in its discussion, so simple that it needs no diplomacy in its negotiation. All that is needed on the part of the United States is a firm determination to protect the rights of all of its citizens at all times, at all places, and under all circumstances.

This determination should be proclaimed in a definite declaration and supported by whatever action is necessary to secure universal international acceptance of the principle involved. The principle involved is not a question of Judaism. It is a question of justice. It is not a question of religion. It is a question of right. It is not a question of politics. It is a question of patriotism.

The insolent action of Russia does not affect one citizen or one class of citizens. It concerns all citizens and all classes of citizens. It is not merely an outrage upon the individual. It is an insult to the American Nation.

The point at issue, plainly stated, is simply whether the seal and signature of the United States upon a certificate of citizenship render it valid and acceptable at its face value, or subject to discount in Russia or in any other country that chooses to depreciate it. This is a point vital to the honor and integrity of this Nation. It brings up the question of whether the United States is politically solvent, whether its guarantee is good.

We invite the people of all parts of the world to our shores. We guarantee them the rights and privileges of citizenship. It is the duty, then, of our Government to protect these citizens and all our citizens in the rights and

privileges which it has guaranteed. Whenever our Government fails to do this it defaults in its duty to the citizenship.

Here at home our political indifference permits our citizens to be bullied by corrupt bosses, exploited by unscrupulous politicians, and plundered by privileged interests. Abroad, it allows our citizens to be insulted with all the insolence and defiance characteristic of Russian bigotry and tyranny.

It is time to stop these insults, to end these outrages. We are entering upon an era of reconstruction and reform, of advancement and improvement. We have begun to recognize and to remedy some of our unsatisfactory conditions at home. It is now time for us to take up and remedy this particular harmful and humiliating condition abroad.

I myself do not happen to be of the Jewish race, or of the Jewish faith, or of Jewish descent. I am speaking merely as one American citizen interested in the honor of his country and in the welfare of his fellow citizens. To be sure, I have very many good and true friends among the Jewish people, many friends whom I have never met and may never know, but who have been very kind to me and whom I cherish dearly.

I have other intimate personal friends among the Jewish people, friends whom I have known long and well. These men honor my house by their presence, and by their presence they would honor the palace of the Czar. I admit a friendship for the Jewish people, a feeling of deep appreciation for all the political and personal courtesies which the Jewish people have extended to me.

But, my friends, I solemnly declare that in this cause I am moved not so much by a sense of friendship as by a sense of justice, not so much by a sense of obligation to Jewish citizens as by a sense of patriotic duty to all the citizens of our Nation.

I am speaking in the interest of all Americans—of Jewish-Americans, German-Americans, Irish-Americans, Italian-Americans—of all the citizens of this great Nation, whether in the East or in the West or in the North or in the South. We are a united people. Let us stand as a unit behind every American citizen. Let us secure and preserve for him at home and abroad, near at hand and in the uttermost ends of the earth, every right that has been granted him, every privilege that is properly his.

The American citizen should be like the citizen of ancient Rome. Wherever he goes the power of the greatest country in the world should go with him and stand behind him. Our country is the greatest country in the world, and it is the character and quality, the fidelity and devotion, of our citizens that have made our country great, that have made its name honored throughout the world.

What our citizens have done for their country, our country should do for its citizens. If our country is the most respected, the most considered, the most honored of all the countries of the world, then our citizens, wherever they go with the passport of the United States in their hands, should be and shall be the most respected, the most considered, and the most honored of all the citizens of the world.

In the protection of its citizens, in the maintenance of its own self-respect, in the defense of its own honor, let the United States assert its dignity, and, if necessary, employ its power.

ADDRESS OF RIGHT REV. DAVID H. GREER, BISHOP OF THE PROTESTANT EPISCOPAL DIOCESE OF NEW YORK CITY.

This is essentially an American question. The Jews are active in the matter. Why not? Because they are discriminated against, and yet I maintain that it is not the Jews who should be chiefly interested in it, but the whole body of our American citizenry. Further, I claim that it is a moral question. When that treaty, a little more than three-quarters of a century ago, to which reference has been made here to-night, was ratified, then it became, as Senator O'Gorman has said, according to the sixth article of our American Constitution, the supreme law of the land; and when that supreme law is disregarded, deliberately and persistently, is it not lawlessness? You may say it is not we who are disregarding it, but by our acquiescence in that disregard of it or disobedience to it, we are contributory to that lawlessness, and in so doing are giving encouragement to that spirit of lawlessness which is so active and so destructively active in our modern life, and for the safety and the perpetuity of our modern life, with all that it means and stands for, for all of us, and our modern civilization, we should lift voices and set our faces against it.

We hear it said that perhaps there would be some loss. I do not think it; but be it so, there is no loss than can happen to a nation greater than the loss of its own distinctive principles which it believes to be right, and that I maintain should not be a first consideration. It was not the consideration of our forbears, or the forbears of some of us, who came here, as Russell Lowell says, "Seeking not gold, but God, and the liberty to worship Him here and serve Him here, each man according to the dictates of his own conscience."

ADDRESS OF GOV. WOODROW WILSON, OF NEW JERSEY.

The object of this meeting is not agitation; it is the statement of a plain case in such terms as may serve to arrest the attention of the Nation with regard to a matter which is of no mere local importance, which does not merely affect the rights and essential privileges of our Jewish fellow citizens as freemen and Americans, but which touches the dignity of our Government and the maintenance of those rights of manhood which that Government was set up to vindicate.

The facts are these: For some 80 years a treaty has existed between this country and Russia, in which it is explicitly covenanted and agreed that the inhabitants of the two nations shall have the liberty of entering any part of the territory of either that is open to foreign commerce; that they shall be at liberty to sojourn and reside in all parts whatsoever of the territory thus opened to commerce in order to attend to their affairs, and that they shall enjoy the same security and protection as inhabitants of the country in which they are sojourning, on condition, of course, that they submit to the laws and ordinances there prevailing, and particularly to the regulations there in force concerning commerce. For some 40 years the obligations of this treaty have been disregarded by Russia in respect of our Jewish fellow citizens. Our Government has protested, but has never gone beyond protest. After 40 years of correspondence the Russian Government naturally does not expect the matter to be carried beyond protest to action, and so continues to act as it pleases in this matter, in the confidence that our Government does not seriously mean to include our Jewish fellow citizens among those upon whose rights it will insist.

It is not necessary to conjecture the reasons. The treaty thus disregarded by Russia is a treaty of commerce and navigation. Its main object is trade, the sort of economic intercourse between the two nations that will promote the material interests of both. Important commercial and industrial relations have been established under it. Large American undertakings, we are informed, would be put in serious peril were those relations broken off. We must concede something, even at the expense of a certain number of our fellow citizens, in order not to risk a loss greater than the object would seem to justify.

I, for one, do not fear any loss. The economic relations of two great nations are not based upon sentiment; they are based upon interest. It is safe to say that in this instance they are not based upon mutual respect, for Russia can not respect us when she sees us for 40 years together preferring our interests to our rights. Whatever our feeling may be with regard to Russia, whatever our respect for her statesmen or our sympathy with the great future in store for her people, she would certainly be justified in acting upon the expectation that we would follow our calculations of expediency rather than our convictions of right and justice. Only once or twice, it would seem, has she ever thought our Government in earnest. Should she ever deem it in earnest, respect would take the place of covert indifference and the treaty would be lived up to. If it was ever advantageous to her, it is doubly and trebly advantageous now, and her advantage would be her guide, as has been ours, in the maintenance of a treaty of trade and navigation.

If the Russian Government has felt through all these years that it could ignore the protest of American ministers and Secretaries of State, it has been because the American Government spoke for special interests or from some special point of view and not for the American people. It is the fact that the attention of the American people has now been drawn to this matter that is altering the whole aspect of it.

We are a practical people. Like the rest of the world, we establish our trade relations upon grounds of interest, not sentiment. The feeling of the American people toward the people of Russia has always been one of deep sympathy, and I believe of ready comprehension, and we have dealt with their Government in frankness and honor, wherever it appears that the interests of both

nations could be served. We have not held off from cordial intercourse or withheld our respect because her political policy was so sharply contrasted with ours. Our desire is to be her friend and to make our relations with her closer and closer.

But there lies a principle back of our life. America is not a mere body of traders; it is a body of free men. Our greatness is built upon our freedom—is moral, not material. We have a great ardor for gain; but we have a deep passion for the rights of man. Principles lie back of our action. America would be inconceivable without them. These principles are not incompatible with great material prosperity. On the contrary, unless we are deeply mistaken, they are indispensable to it. We are not willing to have prosperity, however, if our fellow citizens must suffer contempt for it, or lose the rights that belong to every American in order that we may enjoy it. The price is too great.

Here is a great body of our Jewish fellow citizens, from whom have sprung men of genius in every walk of our varied life; men who have become part of the very stuff of America, who have conceived its ideals with singular clearness and led its enterprise with spirit and sagacity. They are playing a particularly conspicious part in building up the very prosperity of which our Government has so great a stake in its dealings with the Russian Government with regard to the rights of men. They are not Jews in America; they are American citizens. In this great matter with which we deal to-night, we speak for them as for representatives and champions of principles which underlie the very structure of our Government. They have suddenly become representatives of us all. By our action for them shall be tested our sincerity, our genuineness, the reality of principle among us.

I am glad this question has been thus brought into the open. There is here a greater stake than any other upon which we could set our hearts. Here is the final test of our ability to square our policies with our principles. We may now enjoy the exhilaration of matching our professions with handsome performance. We are not here to express our sympathy with our Jewish fellow citizens, but to make evident our sense of identity with them. This is not their cause; it is America's. It is the cause of all who love justice and do right.

The means by which the wrongs we complain of may be set right are plain. There is no hostility in what we do toward the Russian Government. No man who takes counsel of principle will have in his thought anything but purposes of peace. There need be for us in this great matter no touch of anger. But the conquests of peace are based upon mutual respect. The plain fact of the matter is that for some 40 years we have observed the obligations of our treaty with Russia and she has not. That can go on no longer. So soon as Russia fully understands that it can go on no longer, that we must, with whatever regret, break off the intercourse between our people and our merchants unless the agreements upon which it is based can be observed in letter and in spirit, the air will clear. There is every reason why our intercourse should be maintained and extended, but it can not be upon such terms as at present. If the explicit provisions of our present agreement can not be maintained, we must reconsider the matter in the light of the altered circumstances and see upon what terms, if any, of mutual honor our intercourse may be reestablished. We have advantages to offer her mechanics, her mine owners, her manufacturers which her Government will not despise. We are not suppliants. We come with gifts in our hands. Her statesmen see as clearly as ours. An intolerable situation will be remedied just as soon as Russia is convinced that for us it is, indeed, intolerable.

ADDRESS OF HON. CHAMP CLARK, SPEAKER OF THE HOUSE OF REPRESENTATIVES.

The great question which has brought this vast audience here to-night is not one either of religion or of politics. It is not a dispute about Jews or Gentiles, Catholics or Protestants, Presbyterians, Baptists, Methodists, or Episcopalians, or anything of the sort. In this country there is no discrimination under the Constitution or laws against any man because he belongs to any church or to no church, to any political party or to no political party. All are held to be equal before the law and under the law. The question for consideration to-night, here and everywhere throughout the country, is whether an American passport duly issued to any of our citizens by the State Department shall be honored according to the terms of the treaty solemnly entered into years and years ago by one of the great nations of earth.

Our treaty with Russia in no way provides for discrimination against any American citizen or against any class of American citizens, and we should not permit it in practice. That is the plain, fair, candid statement of the situation.

No nation is under the slightest obligation to enter into any treaty with us whatsoever. But if any nation elects to enter into a treaty with us, the obligation rests upon it to carry out the terms of the treaty just as it rests upon us—no more, no less. Russia has a perfect right upon due notice to us to abrogate this treaty, just as we have the right to abrogate it upon due notice to Russia. And as Russia will not honor our passports as to certain classes of our citizens—Jews, Catholic priests, and Protestant ministers—and as a vast majority of American people desire to see all our citizens treated alike when traveling in the foreign countries and to be safe under our passports, there seems to be nothing left for us to do except abrogate the treaty.

The conduct of the Russians in this matter is no doubt satisfactory to them, but to us it seems unaccountable on any grounds of reason. It has created universal horror and has elicited universal protest. We are here to express our protest. We appeal to the moral sentiment of the world—that same moral sentiment which Daniel Webster invoked not in vain in 1823 in favor of the Greeks—that moral sentiment which when fully aroused is stronger than mailed legions—stronger than Krupp's big guns—that moral sentiment which when properly directed is irresistible for any human power.

ADDRESS OF DR. JACOB GOULD SCHURMAN, PRESIDENT OF CORNELL UNIVERSITY.

The most terrible curse of mankind is hatred of race. And the next in that bad eminence is religious persecution. Of these twin furies the chief victim for more than a thousand years has been the Jew. Nearly all nations share in greater or less degree the deep damnation of his oppression and persecution.

At the time of the Kishinev massacre in 1903 it was my privilege to speak from this platform with our greatest and most honored citizen—Grover Cleveland. We endeavored to voice your horror at the awful crime and your compassion with the helpless sufferers. Our appeal was to the universal heart and conscience of mankind. We had no legal right to denounce or even to criticize; we had no standing at the bar of law, whether municipal or international.

To-night we take our stand on the supreme law of the land. On behalf of our cause we make no appeal to pity, we touch no chord of sympathy, we invoke neither generosity nor even that natural kindliness and consideration for others which is often the best diplomacy of nations. We plant ourselves squarely on our rights, and on our rights alone.

But while we propose to assert our rights, there are two preliminary considerations about which we are deeply anxious there shall be no misunderstanding. In the first place we are lovers of peace and good will. But we believe that the only permanent security for peace and good will among the nations is a scrupulous regard on the part of each for the just rights of others. And in the second place, we are the friends of Russia and desire earnestly the continuance of the good relations which for more than a hundred years have subsisted between the Russian and American governments and peoples. We are convinced, however, that these friendly relations will not be menaced in the slightest degree by a reassertion of the principles on which our republic rests, and especially the fundamental democratic principle of equal rights and equal protection for all citizens. This is our deliberate judgment of the effect of our utterances. But even if, to suppose an utter improbability, we were mistaken in our estimates, we could nevertheless not forbear the public confession of our devotion to democracy and our loyalty to the Constitution of the United States. If on this theme we cravenly held our peace the very stones of our country would cry out against us.

The question before us to-night is Russia's treatment of passports issued to American citizens by the Government of the United States. And the basis of all our arguments and contentions is the treaty negotiated between this country and Russia in 1832 and particularly Article I of that treaty, which reads as follows:

"There shall be between the territories of the high contracting parties, a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of

the territories of each party, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

The language of this article is clear and explicit. It needs no exposition. Yet it may be well to remember that it is a general principle of construction with respect to treaties that they shall be liberally construed. As Chancellor Kent and said: "Treaties of every kind are to receive a fair and liberal interpretation, according to the intention of the contracting parties, and are to be kept with the most scrupulous good faith." Our own Supreme Court has laid down the same principle and followed it in its decisions. It has declared that "where a treaty admits of two constructions, one restrictive of rights that may be claimed under it, and the other favorable to them, the latter is to be preferred." And the Supreme Court applied this principle of construction in the case of Tucker *v.* Alexandroff in giving Article X of this same treaty of 1832 a liberal construction, with the result that Alexandroff, a conscript in the Russian naval service who was in this country, was turned over to the Russian authorities. And in delivering the opinion in this case the court declared that treaties "should be interpreted in a spirit of uberrima fides"—in that "broad and liberal spirit which is calculated to make for the existence of a perpetual amity" between the parties to the covenant.

The powers of the Government of the United States both in domestic and foreign affairs are defined and restricted by a written Constitution. Now the Constitution of the United States provides in section 3, Article VI, that "no religious test shall ever be required as a qualification to any office or public trust under the United States." But even this guarantee did not satisfy the jealous regard in which the people of the United States held the right of religious freedom. Accordingly, the first of the amendments to the Constitution provided that "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof." These constitutional safeguards not only protect and guarantee religious freedom in the United States but also establish the right of American citizens to be dealt with irrespective of their religious belief. And the history and traditions of the American people afford an irrefragable confirmation of their official attitude in all matters relating to the inviolability of conscience and religious faith.

It is not only incredible, therefore, but it is impossible that the Government of the United States in 1832 should have entered into treaty obligations with Russia in violation of the expressed prohibitions of the Constitution, the spirit of our Government, and the sentiments and ideals of our people. Whatever else may be contained in this Treaty we can be absolutely sure that it does no violence to the religious feelings and beliefs of any part of the American people or any section of their common country. Not even the right to self-government is more firmly imbedded in the Constitution than the unqualified right of religious freedom and the equal treatment of all citizens irrespective of their religious faith.

The treaty with Russia was negotiated during the presidency of Andrew Jackson, who was a jealous guardian of the rights of the American people. It was ratified by an unanimous vote of the Senate. We may be sure that neither President Jackson nor the Senate would fail to assert in these negotiations any of the rights and privileges of the free citizens of this Republic. Had they been guilty of such inconceivable laxity they would not only have exposed themselves to the denunciations and contempt of their fellow citizens, but to the ridicule of the "effete monarchies" of Europe. And there was one contemporaneous event which would have made that ridicule especially bitter. In 1815 Turkey had made a treaty with Austria, by the terms of which Turkey's subjects were to receive in Austria the same treatment as Austrian subjects. But in spite of this treaty Austria undertook to treat Turkish Jews differently from other Turkish subjects because she treated her own Jews differently from her other subjects. But the Turkish Government protested against the discrimination, declaring that it could not permit the slightest difference to be made between Turkish subjects on account of their creed. And to this protest Metternich was compelled to yield, and, therefore, all Turkish subjects, Jews as well as others, were treated alike in Austria.

What President Jackson and the Senate and people of the United States would in 1832 have declared impossible and inconceivable has nevertheless

actually happened. The rights and privileges guaranteed to American citizens by Russia in the treaty of 1832 Russia now denies to American citizens of the Jewish faith. Russia refuses to honor American passports in the hands of our Jewish fellow citizens. It is not merely that instead of a broad and liberal she adopts a narrow and rigid interpretation of the treaty. But, what is of far more consequence, she makes, by her insistence on this arbitrary interpretation, the American Government and American people parties to the violation of the Constitution of the United States and to the repudiation of the right of religious freedom and equality. And all this she does on the ground that American citizens of the Jewish faith can not be suffered to enjoy in Russia a larger measure of rights and privileges than Russia is pleased to concede to her own Jewish subjects.

Whatever may be the natural flow of our sympathies and the dictates of our hearts, whatever the impulses of our common humanity, when we read of Russia's treatment of her Jewish subjects we rigidly restrain and repress them. We recognize fully, if sorrowfully, that Russia has the right to govern her Jewish subjects by exceptional laws. She may coop them together in certain limited territories, prevent them from becoming landowners, bar their access to numerous trades, occupations, and professions, and deny their children the opportunities of education. All this Russia has the right to do with her own Jewish subjects; and whatever the feeling of our hearts we are not here to criticise her procedure or question her rights.

We are here, however, to assert, and we assert it with all the emphasis of which we are capable, and we shall continue to assert it in the face of whatever consequences, that persons of the Jewish faith who are American citizens are entitled to all the rights of American citizens, both at home and abroad. And any attempt to restrict those rights we resent, not as a fresh attack on a race whose age-long martyrdom entitles them to immunity, but as an outrage on the entire body of the American people in all sections of their common country.

The logic which is invoked to authorize the repudiation of American passports in the hands of Jews might be used with the same effect against Americans of the Presbyterian faith or of the Baptist faith or of the Catholic faith or of the faith of any other religious affiliation. And by the same reasoning, foreign powers might hold themselves free to discriminate against certain sections of our country—against the South or against the State of New York or against the Pacific Coast. And as a matter of fact Russia already excludes Catholic priests and Protestant missionaries as well as Jews. We know not to what excesses this dangerous innovation might run. In politics and diplomacy we must always be on our guard against precedents. If we tolerate discrimination against one section of our citizens we invite discrimination against others. In its consequences, therefore, the Russian procedure of which we complain is as dangerous as in its principle it is vicious. We believe, therefore, that whatever the cost and sacrifice, it is the duty of the American Government and the American people to set the ban of their disapproval upon the course pursued by the Russian Government, and to adopt once for all the policy of securing equal treatment by all foreign governments of all American citizens.

It is no satisfaction to us, it is no palliation of the offense, to learn that Russia treats English, French, and German Jews as she treats American Jews. The equal humiliation of foreigners is a poor substitute for the impartial treatment of American citizens.

And if, owing to the complexities of the European political system, it is difficult for European governments to make effective protest, America fortunately is undeterred by such extrinsic considerations. A beginning in reform must be made by some nation, for it is perfectly obvious that with the moral and political progress of mankind the indignities which Russia puts on the Jews of other nations will not be permanently tolerated. And I know no nation more fit to take leadership in this reform that the United States of America. By our location we are free from the entanglements of European politics. The spirit of our people, our history and traditions, our National Constitution and laws, have made us the world's champions of civil and religious liberty and the equal rights of all the people. The peace treaties which President Taft has negotiated with foreign governments, but which no foreign government could have initiated, form a striking example of American leadership in the cause of higher civilization. All these signs and auguries mark our Nation as the predestined leader in asserting against Russian opposition the doctrine of our national solidarity, the common rights of all our citizens, and the inviolability of the passports sealed with the great seal of the United States.

What reason or excuse does Russia give for this policy of discrimination among American citizens which she has adopted? Certainly it is not in the first sentence of Article I of the treaty, which declares that "there shall be reciprocal liberty of commerce and navigation" between Russia and the United States. The general rights here guaranteed are particularized in the two following sentences of the article. The second sentence declares that the inhabitants of the respective countries shall have liberty to enter the ports, places, and rivers of the territories of each party, wherever foreign commerce is permitted. Under this broad stipulation it would seem clear that nothing could keep American citizens, whatever their religious faith, out of Russian territory. But the Russian diplomats take their stand on the last sentence of the article, which declares that the inhabitants of the respective countries shall enjoy "the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce." It is the contention of the Russian diplomats that the words I have quoted authorize the Russian Government to treat American citizens of the Jewish faith in the same way as the Russian Government treats its own Jewish subjects, or as an alternative, that they authorize the Russian Government to exclude American Jews altogether.

I need not point out that this interpretation of the last sentence of Article I of the treaty can not be reconciled with the two preceding sentences, which provide for reciprocal liberty of commerce and navigation and liberty for the inhabitants of the respective States to enter the ports, places, and rivers of the territories of each other. How can these rights be secured if a large portion of the American public, solely on the ground of religious faith, are not permitted to enter the country?

Indeed the Russian construction is an afterthought. For a period of nearly 30 years, from 1832 to 1860, there was no trace of the enforcement of any discrimination against American citizens of the Jewish faith. The practical interpretation which was in this way put upon the treaty by the Russian Government for a period of 30 years following its negotiation is irrefragable evidence of the correctness of the interpretation which the American people have always put upon that document.

Nor is this all. We can not admit for a moment the Russian contention that a local law can override the obligation of a treaty. This is contrary to the well-established principles of international law. As Secretary Blaine wrote in 1881, "Where a treaty creates a privilege for aliens in express terms, it can not be limited by the operation of domestic law without a serious breach of good faith." Nor is this merely an abstract principle of international law; it is a principle which the Government of the United States has already adopted in practice.

In our treaty of 1842 with Great Britain there were provisions regarding extradition which the British Government undertook to restrict by an act of Parliament in 1870. Our Government protested and remonstrated, but without effect. Yet it was determined neither to sacrifice the particular interest at issue nor the great principle of international law to the arbitrary determination of one of the parties. President Grant accordingly in 1876 laid the facts before Congress and announced that unless Congress directed otherwise he would refuse to execute the existing treaty either in making or granting requisitions for the surrender of fugitive criminals. So long as Great Britain persisted in violating the terms of the treaty as they had been understood for nearly 30 years the American Government persisted in the policy of suspending its operation. In six months, however, President Grant was able to announce to Congress that Great Britain was prepared to observe the extradition clause of the treaty in accordance with the interpretation put upon it by the United States. The great principle, so essential in all international intercourse, was once more established, that one of the parties to a treaty could not be permitted to change or alter its terms or construction without the assent of the other.

The question at issue between the United States and Russia is of far more importance than the question at issue between the United States and Great Britain a generation ago. That concerned merely the extradition of criminals. This has to do with the fundamental rights of American citizenship. But although the matters of concernment in the two cases are of vastly different intrinsic importance, the circumstances surrounding them are strikingly similar. Great Britain in the one case and Russia in the other faithfully observed the respective treaties for nearly 30 years. Then both parties set up the claim

that an international agreement could be changed by means of municipal legislation by one of the parties to it. President Grant and the Congress of 1876 repudiated this dangerous doctrine when advocated by Great Britain. And their adherence to principle brought us a complete and speedy victory. I can not doubt that equal firmness and equal fidelity to principle would accomplish the same results in dealing with Russia. And in asserting the equal rights of American citizenship our Government would be supported not only by the public opinion of the United States, but the public opinion of the civilized world.

The Russian construction of the treaty of 1832 is a fatal misconstruction. We have endured it for half a century. Yet every year in all that period we have by our inaction and acquiescence made ourselves parties to a convention which places a stigma upon a large portion of our citizens and consequently an affront upon all American citizens. We dishonor ourselves in perpetuating a pact that makes a distinction between American citizens on the ground of race or religion. If the treaty were not in existence and we know how Russia would interpret it if negotiated, it would neither be negotiated by the President nor ratified by the Senate. Indeed, such a proposal would be regarded as a dishonor and disgrace to our nation. For us to become parties to a treaty which discriminated between American citizens on the ground of race or religion, which did not guarantee equal rights to all American citizens, would be to violate the spirit and letter of our Constitution and the fundamental principles on which our democracy is builded.

Now, I submit, Mr. Chairman, that to make such a new treaty is, on a final analysis, not one whit more reprehensible than to maintain such a treaty already made.

The treaty of 1832 provides that it may be abrogated by either party on giving 12 months' notice. Two courses are open to us. Either the treaty must be abrogated or it must be amended or reinterpreted so that it shall no longer override the Constitution of the United States, violate our national sentiments and ideals, and dishonor the crown and robe of American citizenship.

I should greatly prefer an amendment or a new and satisfactory reinterpretation of the treaty. I am a believer in evolution—not revolution—in every field of human endeavor. And even after 50 years of waiting I think our people ought to wait for a reasonable time to give diplomacy a final opportunity for a satisfactory adjustment of the dispute.

But I do not think we should wait indefinitely. Already American citizenship has, through our own inaction, been too long affronted. The patience of our people is well-nigh exhausted. Anything is better than an indefinite continuance of our participation in the dishonor of American citizenship. It is we ourselves and not Russia who stand before the forum of the world on a charge of infidelity to our own principles and contempt of our own citizenship. We must do right, we must play the part of men of honor whatever the consequences. And if there is no other way of vindicating ourselves, if renewed efforts at accommodation with Russia fail, then I say let the treaty be abrogated since no other means is left us of maintaining our own national self-respect, the priceless boon of civil and religious liberty, the equal treatment of all our citizens before the law, whether at home or abroad, the dignity of American citizenship, and the union and brotherhood of all American citizens who constitute our free and independent Republic.

Address of Congressman N. E. Kendall, of Iowa.

Unless the Government of the United States has alienated all the virility which it possessed as its organization, it will compel Russia to discontinue her discriminations against American citizens of Jewish extraction, or it will summarily suspend all treaty relations with the Empire of the Czar. The situation we are assembled to consider is aggravated beyond endurance, and its adjustment can not be further postponed without a confession of our own utter impotency. We have forborn until now forbearance has ceased to be a virtue. We have delayed until dilatoriness has come to be a crime. The indignities of which we complain are not embraced in a single outrage, perpetrated in an isolated instance. They constitute a series of humiliations extending through a period of nearly two score years, which, when thoroughly comprehended, have been generally condemned. The legislatures of 19 sovereign States have urged that the national authority be asserted. The pulpit, the press, the platform, all the influential organs of public opinion in our land, have insisted that the

dignity of the Republic be maintained. The people themselves, with undivided voice from ocean to ocean, have decreed that American citizenship shall be vindicated in the exercise of all its constitutional prerogatives, here and everywhere. Both the great political parties have spoken on the subject. The Republican national convention at Chicago in 1908 announced:

"We commend the vigorous efforts made by the administration to protect American citizens in foreign lands, and pledge ourselves to insist upon the just and equal protection of all our citizens abroad. It is the unquestioned duty of the Government to procure for all our citizens, without distinction, the rights of travel and sojourn in friendly countries, and we declare ourselves in favor of all proper efforts tending to that end."

The Democratic national convention at Denver, in the same year, declared:

"We pledge ourselves to insist upon the just and lawful protection of citizens at home and abroad, and to use all proper methods to secure for them, whether native born or naturalized, and without distinction of race or creed, the equal protection of law and the enjoyment of all rights and privileges open to them under our treaties; and if, under existing conditions, the right to travel and sojourn is denied to American citizens, or recognition is withheld from American passports on the ground of race or creed, we favor prompt negotiations with the governments of such countries to secure the removal of these unjust discriminations. We demand that all over the world a duly authorized passport issued by the Government of the United States to an American citizen shall be proof of the fact that he is an American citizen and shall entitle him to the treatment due him as such."

But more than three years have elapsed and no substantial redress has been accomplished. We have petitioned and our petitions have been answered by evasion. We have remonstrated and our remonstrances have been defeated by subterfuge. We have protested and our protests have been avoided by deception. The time for petition is gone. The day for remonstrance is past. The hour for protest is ended. The moment for decisive action has arrived, and we are here to register the ultimatum of an aroused electorate that simple justice shall be enforced from Russia in her attitude toward the American Jew.

In 1832 we entered into a solemn convention with Russia, containing, among others, the following stipulation:

"There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories in order to attend to their affairs, and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing and particularly to the regulations in force concerning commerce."

For half a century that provision was faithfully observed by the Russian Government, but since 1882 it has been persistently, notoriously, and defiantly violated by the autocracy of the north. For 30 years that Government has refused to recognize official passports issued by our State Department when presented by a Jew, no matter how successful in business, no matter how celebrated in literature, no matter how distinguished in affairs, no matter how eminent in citizenship he may have been. And this is an infamy to which we will not further submit.

The men who secured our independence, the men who adopted our Constitution, the men who established our nationality, understood that a free government, permanently to survive, must guarantee to every citizen acknowledging allegiance to its flag all the rights, privileges, and immunities enjoyed by any other citizen, irrespective of race or religion. Auxiliary to that proposition, it has become fundamental with us that a loyal citizen of the Republic is entitled to its beneficient protection abroad as well as at home, and that, too, whether he be Catholic or Protestant, Jew or gentile, Christian or atheist. These salutary principles were embodied in the treaty to which I have referred in language so unmistakable that its import is not susceptible of misconstruction. But Russia for three decades has arrogated to herself the right to exclude from her territory certain citizens of our country solely because of their Jewish faith. This condition is intolerable, and a mere recital of the facts ought to be sufficient to command immediate action. Our Hebrew fellow-countrymen are vitally interested in the matter, but, after all, it is not so much a Jewish question as it is an American question. When a citizen of the great

Republic, fortified with a passport issued by his Government and intent upon a legitimate mission, is impudently denied entrance into the domain of the Czar simply because he is a Hebrew, not merely the 2,000,000 worthy, intelligent, and patriotic Jews of America are affronted, but every citizen of the Commonwealth is insulted.

A passport issued by our Government to one of its citizens, authorizing him to enter a foreign country, is silent as to his race or sect or creed, because our Constitution prohibits all religious tests. But under an international usage, which has been observed for many years, this passport must be approved by the consular officers of the country to be visited. When such document is submitted to a representative of the Cossack Government, whether in Boston, or Chicago, or New York, or Washington, his first inquiry is, "What is your religion?" If the answer discloses that the prospective traveler is a Jew, he is insolently disallowed admission into the territory of Russia. When the attention of the United States was first directed to this mischievous inquisition, the indignation of our Government expressed itself in no uncertain terms. As long ago as 1893, upon the refusal of a Russian consul general to indorse the passport of Mrs. Minnie Lerin, on the ground that she was of the Jewish faith, our Secretary of State communicated with the Russian minister of foreign affairs as follows:

"His Majesty's Government surely can not expect the United States to acquiesce in the assumption of a religious inquisitorial function within our borders, by a foreign agency, in a manner so repugnant to the national sense. I can not but surmise that some strange misapprehension exists in that regard in the mind of his Majesty's Government."

This was a noble declaration, for it implied that our Government would resist to the uttermost the unwarranted action of the Russian official. But Russia replied in the following brief and conclusive note:

"The consul general acted in accordance with instructions from his Government."

And from that day to this the Russian Government has continued its ignominious examination into the religious opinions of American citizens desiring to sojourn temporarily within its domain. If we tolerate this iniquity longer, we can not escape the responsibility of an acquiescent partnership in every recurring outrage as it is inflicted in the presence of the world.

Sulzer and Goldfogle and Harrison have exhausted their resources. Cleveland and Roosevelt and Taft have not succeeded by diplomatic intercourse in exacting from the Czar's Government the consideration to which our people are obviously entitled. We must now resort to the only weapon remaining in our arsenal. As a member of the House Committee on Foreign Affairs, I have studied the subject as diligently as I am capable of doing, and I have arrived at the conclusion that if we can not compel a correction of the sinister injustice which I have described, we must terminate at once all amicable relations with the Russian Government.

We do not demand relief for the Jew because he is a Jew, but because he is an American citizen whom we are under the most imperative obligations to protect equally in Brooklyn and in St. Petersburg. I do not recapitulate the contribution he has rendered to the civilization of the world. His career in every avenue of activity has been resplendent beyond comparison. In art, in music, in science, in literature, in philosophy, and in statesmanship his achievements have been phenomenal. Wherever he has established his domicile he has performed his full duty as son, brother, father, neighbor, soldier, and citizen. He is moral, industrious, and law-abiding. He has been execrated and persecuted and banished, but he will not surrender the faith of his fathers. He has been the victim of prejudice, ignorance, and brutality, but he will not recant his ancient beliefs. In our own country, with equal opportunities, he has challenged his gentile brother to a fair field with no favors, and he has distinguished himself at the bar and in the Cabinet, on the bench and in the legislature. In trade and commerce, in finance and industry, he is almost dominant. In education, in journalism, in philanthropy, his record is magnificently creditable. In every variety of useful and honorable endeavor he has attained a distinction which can not be disputed or disparaged. He appreciates the incomparable advantages of American citizenship and is devotedly attached to our Government. In every conflict in which the Republic has engaged he has enlisted at the beginning, and has been discharged only after every armed enemy of his country has unconditionally capitulated. As a Nation we shall be basely recreant if we refuse to secure for him the elementary rights he has so loyally earned. I thank you.

ADDRESS OF CONGRESSMAN WILLIAM SULZER, OF NEW YORK.

The treaty with Russia says American citizens are entitled to the same rights in Russia that Russian citizens are accorded here. If these right are not granted them, then the treaty is violated. Russia does not deny that she discriminates against certain classes of our citizens, and when complaint is made, figuratively speaking, she shrugs her shoulders and asks: "What are you going to do about it?"

We have carefully lived up to our treaty obligations with Russia. Every Russian coming to this country has been granted all the rights stipulated in the treaty, irrespective of race or religion. This is our conception of the treaty of 1832.

What are we going to do about it? Our answer is: Abrogate the treaty.

This is not a Jewish question. It is an American question. It involves a great principle. It affects the rights of all American citizens. Russia not only refuses to recognize American passports held by Jews on account of their race, but she also refuses to recognize American passports held by Baptist missionaries, Catholic priests, Presbyterian divines, and others on account of their religious belief.

Behind the movement which has crystallized under the auspices of the National Citizens' Committee are the big men of every race working as brothers in a common interest.

The Rusian treaty must be abrogated ere the adjournment of this session of Congress. The people are aroused as they never have been before over the question, and the time for action has come.

There can be no arbitration, no delay; the matter must be settled once for all time, and a new treaty arranged in which Russia can find no loophole to enable her to discriminate against any class of American citizens.

We are a patient and long-suffering people where the question involved does not touch us on our tenderest spot—our pocketbooks; but the awakening has come, and with it a keen realization of the affronts we have suffered at the hands of a Government notorious for its lack of human sympathy.

Freedom of religious belief is one of the corner stones of our institutions, and the fathers wrote in the Federal Constitution, "that Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof." We must maintain this great principle inviolate forever.

Not the religion nor the race of a person, but his American citizenship is the true test of the treatment he shall receive and the rights he shall enjoy, at home and abroad. This is fundamental. We must adhere to it tenaciously.

Russia's affront to us has not been unintentional; she has gone about it boldly, deliberately, and shamelessly, breaking her given word, ignoring the fundamental principles which mark the relationship between nations at peace with one another.

Diplomatic attempts from time to time have failed to secure from the Czar's Government even a promise that it would try to give us less cause for complaint. By her inaction Russia has openly refused to give the matter any consideration, confident that America's financial interest in her country would prevent us from taking any radical step.

I am in this fight for justice to all to the end, and I shall make every effort to pass my resolution to abrogate the Russian treaty. I have every reason to believe that it will speedily be enacted into law. To that end, however, every true American must lend such aid as he can.

ADDRESS OF HON. HERBERT PARSONS, OF NEW YORK.

My speech is in just two words: Abrogate now.

ADDRESS OF CONGRESSMAN WILLIAM G. SHARP, OF OHIO.

Early in the last special session of Congress there was introduced in the House of Representatives by Messrs. Harrison and Goldfogle, two distinguished members of the New York delegation, the following joint resolution, from which I quote the opening sentence, and which was referred to the Committee on Foreign Affairs, of which I have the honor to be a member:

"*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled.* That it is, and always has been, a fundamental principle of this Government that the rights of its citizens shall not be

impaired at home or abroad because of religious belief; that this Government concludes its treaties for the equal protection of all classes of its citizens, without regard to religious belief; that this Government will not negotiate nor be a party to any treaty which discriminates, or which by one of the parties thereto is construed to discriminate, between American citizens on the ground of religious belief * * * etc."

Perhaps the attitude upon this question by our own Government, which from its beginning as a Republic has been recognized as the home of the free and as a haven for the oppressed of all nations, could not be better or more completely expressed than in these few condensed words which constitute the prelude of an indictment against the Government of Russia for its violation of the treaty now existing between that Government and our own, concluded at St. Petersburg more than three quarters of a century ago. With the sentiments contained in that resolution I am heartily in accord and pledge my vote and influence in its support.

If, however, this homeopathic remedy proves insufficient to bring about the relief so earnestly sought, as I believe, by a vast majority of the people, then I am in favor of resorting to a surgical operation in effect proposed by a resolution introduced in the United States Senate on the 10th of last April by Senator Culberson, which reads as follows:

"*Resolved*, That it is the sense of the Senate that the treaty of 1832 between the United States and Russia should be abrogated because of the discrimination by Russia between American citizens in the administration of the treaty."

That these resolutions are bound to occupy a conspicuous part in the deliberations of the present session of Congress, there can be no doubt. That the sentiment of the country throughout its length and breadth is overwhelmingly in favor of their adoption, if necessary to obtain the end sought, I have no question.

Indeed, while this grave international dispute may be said to have now reached an acute stage, yet it is by no means a new one either as it concerns discussions in Congress, led by such earnest advocates as Goldfogle and Sulzer, of your city, or as considered in the State Department from the time of Frelinghuysen down through the list of the successive distinguished Secretaries to the present time. The present agitation which will not down is the expected and legitimate result of the long continued delay on the part of the Russian Government in acceding to the reasonable requests for a faithful observance of the expressed terms of the treaty.

So much has been said by political speakers, so much has been written in the magazines and the press of the country upon this grave international question, that it would indeed be a most ambitious aim on the part of any speaker to be able to do better than clothe old arguments and old thought in new words.

Not in many years has our Government had such an opportunity to assert—yes; and protect, if necessary—the inviolability of American citizenship, no matter in what country those right are threatened, as it now has in its dealings with the Russian Government. Not since the beginning of our national existence will the refusal of this Government to insist upon the full observance of those rights be considered so lacking in courage and so pusillanimous in its conduct.

Appreciating, as I believe we all do, the delicacy of the position in which our Government might be placed in revoking treaties with a foreign power heretofore considered friendly, that kind of wise diplomacy consistent always with national honor should, of course, be first used, and it is hoped will be, in maintaining our integrity as a nation, not only as it concerns its obligation to the rights of its citizens, but also in a broader sense, its international standing, if you please, among the nations of the earth.

The results of such a diplomacy futile, its obligation to its citizens and the very sense of justice itself demand an abrogation of the existing treaty with Russia.

No matter how interesting or how conspicuous a place in the political and religious affairs of European countries the feeling of anti-Semitism has occupied in the past, that question, though it may present some embarrassing features in the present instance, happily has never been one to be unfavorably considered in any aspect in this country. Neither should it afford any reason to our Government why it should not compel a full, unrestricted, and undiscriminative observance on the part of the foreign powers to recognize passports granted to its citizens by our Government. Though the persecution of the Jews during the last quarter of the century just closed forms one of the blackest pages in the history of those countries guilty of such atrocities and however much they

may be condemned by the people of this country, yet no one contends that the United States should interfere with the internal policy or domestic affairs of any foreign Government. When, however, the objects of the hatred of such persecutors come to our shores and invest themselves with the full rights of American citizenship they must then—until from choice they divest themselves of such rights—receive exactly the same degree of protection, no matter in what country they happen to sojourn, as is accorded to any other citizen of this country.

Though it is not my purpose in this opportunity given me of expressing my views upon the subject under discussion, to enter into a eulogy upon Jewish citizenship in America, yet, recognizing the achievements, the patriotism and commendable domestic character of that race in our land, it is incredible to me how a civilized nation could deny to such people the fullest measure of political rights and freedom. How many pages descriptive of the industrial and financial development of our great American cities would have to be filled with the part played in such work by its Jewish people if a faithful narrative of their achievements were recorded. What part in the helpful and effective work of our charitable organizations, our civic improvements, and our commercial advancement has this class of our citizens played in the past.

Indeed the work of this class of men in such fields of enterprise as journalism, banking, and humanitarianism may well furnish an inspiration for the American youth of whatever creed or nationality.

From time to time suggestions have been thrown out—I trust wholly without cause—that there may be business reasons why insistence upon the carrying out of this treaty should not be made. While I am ready and willing to acknowledge that we as a Nation must continue more and more to expand industrially and commercially beyond the limits of home consumption if we are to enjoy that degree of prosperity to which our prominence entitles us, yet such expansion of trade must ever be at the price of our national honor or at the sacrifice of the guaranteed rights of the humblest citizen rightly claiming protection of our flag.

Dollar diplomacy, without it is sustained in honor, will fail even from a materialistic standpoint, as no nation or individual can hope to profit or should be allowed to do so at such a price.

ADDRESS OF CONGRESSMAN FRANCIS BURTON HARRISON, OF NEW YORK.

Nearly eight years ago I made my first speech in the House of Representatives, and it was on the subject of the abuse by Russia of our passport. During all these intervening years I have been active in the endeavor to redress this international wrong and now it seems that the efforts of those of us who have labored in this cause are about to be crowned with success.

For over a generation we have been the tools of Russian diplomacy. We have in vain intrusted the assertion of our national honor to diplomatic channels. The time has come for a more vigorous move. The best weapon ready to our hand is the abrogation of the treaty, from which the shameful practice is alleged to spring. To all of our diplomatic representations on the passport question Russia has replied that she is merely living up to her side of the treaty. Let us do away with the treaty and deprive her of that excuse. The matter will then rest upon the broad rights of American citizenship. Let Russia admit us all or reject us all, and in the final analysis let us give her to understand that of all discriminations which she might practice between American citizens, religious discrimination is to us the most objectionable.

But the timid say that if we abrogate our treaty with Russia, American commerce will suffer. This I entirely deny. In my opinion, commerce will go on between the two countries in substantially the same way as it does now, unless indeed Russia should put herself further in the wrong by undertaking aggressive reprisals. Commerce is not dependent upon treaties but upon the business requirements of the people of the two countries and will continue to flow in its accustomed channels, treaty or no treaty. But I value human rights higher than the profits of commerce. I place the dignity of our country on a higher plane than the ledgers of our merchants, and come what may, I most strongly favor the utter annihilation of the document, under cover of which a nation ostensibly favorable to us can practice on American citizens the most odious of discriminations.

REMARKS OF HONORABLE WILLIAM S. BENNET, OF NEW YORK.

Men are more important than property and principle more than either. The fight to abrogate the Russian treaty is a fight for principles. We will not permit any portion of our people to be discriminated against because of religious belief. It is an American, not a Jewish question. It is a national, not a commercial question. No nation can long survive which subordinates principle to either life or property. It is not at all essential that we should make money. It is not even greatly important that any one of us should live a particular term of years, but it is essential that this Nation should survive. It can not survive without principle. It can not survive unless an injury to one is the concern of all.

ADDRESS OF CONGRESSMAN WILLIAM M. CALDER, OF NEW YORK.

Mr. Chairman, ladies, and gentlemen, I know of nothing that I can add to what has already been said. But there is one point that I have in mind that has not been touched upon here this evening, and I will speak on that just for a moment, and then end. I have heard it discussed in the newspapers that we take upon ourselves the right, by treaty it is true, to prevent coming to this country Chinese and Japanese; and that therefore we ought to accord to Russia the same right to any particular citizenship of our country. I answer that by saying that we accord to the Japanese and the Chinese merchant and student, men of science and art, the right to come and go in this country just as they please, if he presents to this country the facts that he has come here for that purpose. And I am also aware of the fact that while this Government of ours issues its passports to every citizen, when they come to be looked over by the Russian consul, that Russian consul does not ask of the men with the passports, "What is your race, or whence do you come, or where were your people born?" but, "What is your religion?" This country of ours, founded by Almighty God, was established from the beginning that we people should serve God as we feel disposed, and for all time that that privilege should be created. With my other colleagues from New York, Messrs. Sulzer, Harrison, and Goldfogle, I introduced upon the opening of this Congress a resolution abrogating this treaty with Russia. I shall appear before Mr. Sulzer's committee next week and ask that that committee report a resolution of this character, and I can assure you, with the rest of these gentlemen, that the House of Representatives will pass a general resolution abrogating that treaty. Now, like all the rest of my distinguished associates here, I had a speech in my pocket, and one in my heart as well, that perhaps would have occupied your time and ours for some length; but we have a rule in the House of Representatives, an arrangement that when the day is getting late and the Members are tired and weary and want to go home that a fellow sometimes gets up in his place and gets the eye of the Speaker, and asks the unanimous consent that his speech may be printed in the Record; and so I will say that while I have not my speech written out, perhaps some time I will finish it and put it in the Record. I thank you.

ADDRESS OF CONGRESSMAN HENRY M. GOLDFOGLE, OF NEW YORK.

This large and inspiring assemblage, gathered in the patriotic cause of national justice and righteousness, evidences that the consciousness of the American people is fully aroused on this most important passport proposition.

It is a deeply deplorable fact that despite the grandeur, the power, and the glory of our beloved country, Russia has persistently discredited our passports when presented at the Russian gate by law-abiding American citizens, on the ground of the religious faith of the holder.

The treaty concluded between the United States and Russia in 1832 by its terms guarantees the right of our citizens to unmolested travel and sojourn in Russia as fully and completely as we afford unmolested travel and sojourn to a Russian subject in our territory; and yet in the face of that solemn compact Russia makes discrimination between our citizens, she turns that passport aside with scorn, treats it with contempt, humiliates our citizens, and by that act insults the American Nation.

It has been the teaching of our country since the creation of the Republic, and it has been our proud boast that all our citizens are equal before the law and are entitled to the equal protection of the American flag, whether abroad or at home.

In the face of this, America has tolerated entirely too long Russia's defiant and insulting conduct. For years we have, through diplomatic channels, made representations to the Russian Government and sent to her our earnest remonstrances against her treatment of our citizens holding American passports.

Congress has within the last 12 years thrice passed resolutions, each one of which I had the honor to introduce, for the purpose of securing the abrogation of Russia's unjust, intolerant, and bigoted restriction.

The last two of these resolutions—one of 1904 and the other of 1909—called upon the President to take steps to secure from Russia the removal of these restrictions or to secure new and definite treaty stipulations, under which no question could arise as to Russia's duty to recognize our citizens equally and alike.

Perhaps the strongest demand that was made upon Russia since the question was agitated was found in the communication of the American ambassador at St. Petersburg, which conveyed the full text of the resolution of 1904 to the Government of the Czar. In it, among other things, the ambassador said: "The resolution voices not only the feelings of the American people, but also a principle that lies at the foundation of our Government. It is for this reason that the question has been, is, and always will be a live question with us, and liable to become acute and be brought forward at some time in such a way as to seriously disturb the friendly relations which have always existed between Russia and the United States."

Mark you, this we said to the Russian Government a little over seven years ago; and though since we have again and again repeated our demand, Russia has bid us defiance, and to this day she has remained obstinate in her course.

It is, indeed, awful to contemplate that Russia, despite her protestations of friendship for our country, and her repeated and as often broken promises, made in years long past, to extend better treatment, wickedly continues in her outrageous course of discrimination against a people she proscribes, and turns her back contemptuously on the American passport they present at her doors for no other reason than they are loyal to the faith of their fathers, true to their conscience, faithful to their God.

Sir, were we considering to-night Russia's conduct toward the people who are proscribed within her own country, what a painful story of tragic hate, of bitter malice, of base persecution, and harsh tyranny could we unfold. Unoffending men, women, and children have been the object of her fanaticism and the victims of her despotism. Oppressive laws and proscriptive edicts have been directed against them which made them the victims of Russian hate and rapacity. Merciless cruelty and unspeakable barbarity have too often been the sad lot of these unhappy people. Against the outrages to which they were subjected—atrocities which shocked the sensibilities of all humanity; which stain the pages of Russia's history and shame the civilization of the age—we, in the past uttered our protest. But we are not dealing with that phase of Russia's treatment to-night. With her internal treatment of her own subjects within her own domain we can not interfere. But the question which vitally concerns us now is, What shall America, in its line of duty to its own citizens, native and naturalized and of every creed, do to secure for them uniformity of treatment under treaty rights, and to maintain inviolate the integrity of the American passport?

Let no man here or abroad misunderstand the principle upon which we have made our demand, and which now calls for decided action—it is the principle of Americanism, to be fought out on no narrow lines, but upon broad, liberal, American lines that appeal to every American mind and touch every American heart.

If it be asked in virtue of what right the class of citizens mainly discriminated against look to this country for action tending to prevent the continuance of the discrimination that Russia makes, I would, instead of using my words, borrow the words of the late William M. Evarts, who, when Secretary of State, instructing our then minister at St. Petersburg, said: "In the presentation of the facts you should be careful to impress that we ask treaty treatment for our aggrieved citizens, not because they are Jews, but because they are Americans."

It is pleasing that this question has always been regarded—as it always should be—as a purely American question. Besides the large body of Jews at which the restrictions are mainly aimed, there are other faiths against which Russia, in her bigoted course, draws the line of demarcation.

It matters little, however, against how many of one class, or how many of another class of American citizens Russia may level her restrictions as to entry

within her borders—it is America's duty to protect, in the broadest way, all her citizens alike, allowing discrimination against none—protecting all by every legitimate means at her command.

When the foreigner comes to our shore to travel or sojourn or seek a home, we ask not what his faith or what his professed religious creed may be. We afford him the hospitable shelter of our lands, and this we do, not as a matter of mere favor, but in virtue of the cardinal principles of our Government, thundered out to the world by a Washington, a Jefferson, an Adams, and a Patrick Henry, and the others of the patriot band of our revolution who, in early life of our Republic proclaimed America's creed as it is written in ancient lore: "Liber ty throughout the land and unto all the inhabitants thereof.'

In the exercise of the highest ideal of America—civil and religious liberty—our country has flourished and prospered as none other since the creation of the world. Through its means we have cemented the ties of our common citizenship, given hope and cheer to every man within our borders, and instilled the noblest ambitions and highest aspirations; banished class distinction, dispelled base prejudice, and secured thet emancipation of the slave. Civil and religious liberty, consecrated by the suffering and martyrdom of our Revolutionary fathers, jealously guarded through every epoch of our Nation's history and our Nation's trials, has been the potent factor to upbuild and uplift humanity, and to make this country the enlightened and progressive and prosperous Nation it is to-day.

If Russia—bigoted, autocratic, intolerant Russia—were to go but half the distance that America has gone in the conferring of civil and religious liberty, she would find that instead of incurring the displeasure and the criticisms that have been so often justly expressed against her, she would rather win some measure of favorable opinion of mankind.

When I first entered Congress, I took up this passport fight as an American sitting as a Representative in the National Legislature. I deemed it my duty, unceasingly and unflinchingly, to wage the fight, and I trust yet to see, God helping our efforts, and sustained and cheered by the sentiment of the American people everywhere, a successful outcome of the issue and the vindication of our citizenship through the uniform recognition of the passport by Russia, regardless of the religion of the man who bears it. On the very opening day of the present Sixty-second Congress my colleague, Mr. Harrison, and I together introduced a resolution to abrogate the treaty. Mr. Sulzer also introduced a similar resolution. So did Mr. Calder and some others of my colleagues, all of whose valuable aid we fortunately have.

Standing as an American loyally devoted to my country and her flag, recognizing no division or distinction between our citizens who happen to differ in creed, I insist upon the maintenance of those rights that make for the equality guaranteed to all Americans by the Constitution of the Republic and the broad, the liberal, and the tolerant policy of this God-blessed land.

The time for action is at hand. We must proceed unfalteringly and with steady hand. The spirit of the American people everywhere upon this great question is aroused. We can no longer permit Russia to treat us with contempt or turn away our citizens after submitting them to the humiliation of an inquisition into their religious belief. The twelfth article of the treaty of 1832 provides that either Government may give notice to the other of 12 months of its election to terminate the treaty.

Well, then, let us give that notice. Let us tell Russia that from this very hour she must cease her insulting treatment of our citizens. She must honor the passport which bears the seal of the United States. She must not discriminate between our citizens because their religion happens to be opposed to her ideas. With craft and cunning and false promises she has evaded entirely too long the issue, and America, to maintain the integrity of her citizenship and preserve her national self-respect, must now demand that Russia live up squarely to her solemn compact or we must denounce the treaty for her persistent violation of it.

Abrogation of the treaty is the proper remedy now proposed. I urged it and advocated it in 1909. I incorporated a clause for the abrogation of the treaty in the original resolution of 1909, and it is with delight that I note that my views on the subject of abrogation are now vindicated and sustained by my fellow countrymen.

American honor demands the decided action which you have met here to ask. Your protest, joined with the protests coming from every section of the Republic, will create that powerful, overwhelming sentiment which will move

Congress to action and impel the Executive to notify Russia to cease her discrimatory conduct now and forever or submit to a cessation of the treaty.

Did time permit, or were it at all necessary, after the splendid addresses that have been made, I would gladly enter upon a discussion of those details which would make it clear to those who have not yet studied the subject or looked into it closely, the necessity of taking the steps which you as Americans are assembled to demand. But I must, in justice to those who are to follow me, hasten on.

I would not, however, close before saying to my fellow countrymen that if we shall compel Russia to respect the passport, which is the badge of honorable citizenship, we will have taken a long step in the direction of impressing a powerful moral lesson on Russia, tending to break down the barriers that unfortunately and sadly still exist in that country between class and class, brought about through bigotry, persecution, and intolerance.

We shall win the fight. Failures in the past shall not discourage us. Victory shall yet be ours. Remember,

> Freedom's battle, once begun,
> Bequeathed from bleeding sire to son,
> Though baffled oft, is ever won.

The following letter from Gov. Judson Harmon, of Ohio, was read by Secretary Bernard Nolan:

STATE OF OHIO, EXECUTIVE DEPARTMENT,
Columbus, December 4, 1911.

DEAR MR. SULZER: I am sorry previous engagements keep me from the meeting December 6, because I heartily approve its purpose. We must put public sentiment behind our official agents. Then we shall secure from Russia full respect for American passports. We permit no discrimination at home among our citizens, whether native or adopted and whatever their race or religion, and we can submit to none by other countries; for if we do, we become parties to it ourselves.

Very truly, yours, JUDSON HARMON.

Hon. WILLIAM SULZER, *115 Broadway, New York, N. Y.*

Mr. Nolan also read the following telegrams:

WASHINGTON, D. C., *December 6.*

NATIONAL CITIZENS' COMMITTEE,
Hudson Terminal Building, 30 Church Street, New York.

I regret to find that engagements will prevent my attending the meeting of the National Citizens' Committee to-night in New York. I am in cordial sympathy with the purposes of the meeting. The time has come when some definite and final action must be taken to put an end to discriminations against certain of our American citizens. I am informed that negotiations are now being conducted with the Russian Government looking to changing these conditions and that they give good prospect of more practical result than our previous negotiations, which have extended over so many years. We should know definitely, however, at a very early date just whether anything is to be hoped for or expected in this direction; and if nothing can be done, I am in favor of giving notice of the abrogation of the present treaty with Russia. No delays ought to be permitted, and this question ought to be definitely decided soon after the beginning of the new year. I extend my best greetings and wishes.

BOIES PENROSE.

WASHINGTON, D. C., *December 6.*

NATIONAL CITIZENS' COMMITTEE, *New York City:*

I regret beyond measure my inability to be present this evening at the great New York mass meeting to enter a righteous protest against the intolerant position of the Russian Government in the matter of dishonoring passports issued to American citizens and to urge a militant step forward for the summary ending of a grievous insult to the American flag. As a member of the Committee on Foreign Affairs of the House of Representatives, I pledge myself unqualifiedly in favor of the immediate passage of the Sulzer resolution pro-

viding for the abrogation of the treaty between the United States and Russia, as negotiated at the convention of St. Petersburg in 1832, for a paper of state that permits such a flagrant breach of international comity as has been suffered by American citizens at the hands of the Russian monarchy is not worth the paper upon which it is written. Kindly assure the great assembly that the Sulzer resolution will pass the Committee on Foreign Affairs by a majority vote, and that I am pledged to its furtherance with every consideration in my power.

JAMES M. CURLEY,
Member of Congress from Massachusetts and
Member of Committee on Foreign Affairs.

WASHINGTON, D. C., *December 6.*

NATIONAL CITIZENS' COMMITTEE,
30 Church St., New York City:

I find that it will be impossible for me to be present at the meeting in Carnegie Hall this evening, but I wish you would say on my behalf to those present that the subject of the treatment of the American passport in the hands of any American citizen is one in which I am deeply interested and which I am sure must appeal with great force to every American. The spectacle of a great and alleged friendly nation persistently and perniciously violating a treaty into which it has solemnly entered and discriminating against one class of our citizens, solely because of their race or creed, presents a condition such as we as a self-respecting nation can not tolerate. For over 30 years the diplomatic officers of our Government have expended their efforts in fruitless endeavor to correct this insolent wrong. Hedging behind one specious pretext or other, the Russian Government has continued to maintain the discriminatory policy it inaugurated in violation of our treaty rights and no other recourse is left us, if we would save our honor, but to serve notice that the treaty is to be terminated. I hope to live to see the day when an American passport, in the hands of an American citizen, will beget as scrupulous respect and regard for the rights of its holder as that which of old was accorded the individual who could proudly boast, "I am a Roman." To these views I would add that as a Member of the House of Representatives and of the Committee on Foreign Affairs, I pledge my earnest support of the movement for the abrogation of the present treaty with Russia, unless she recognizes all passports of American citizens regardless of race or creed.

J. CHARLES LINTHICUM,
Member of Congress from Maryland and
Member of Committee on Foreign Affairs.

The closing benediction was offered by Rev. Dr. Joseph Silverman of Temple Emanu-El.

Chairman McAdoo in his closing remarks praised the work of Henry Green, general director of the National Citizens' Committee, who organized the movement which culminated in the mass meeting. More than 4,000 persons were admitted into Carnegie Hall and more than 3,000 were turned away for lack of room.

The CHAIRMAN. The next speaker will be Judge Mayer Sulzberger, of Philadelphia.

STATEMENT OF HON. MAYER SULZBERGER, PRESIDENT JUDGE OF THE COURT OF COMMON PLEAS, NO. 2, PHILADELPHIA.

Mr. SULZBERGER. Gentlemen of the committee, the question presented before you to-day has reached such a stage, as evidenced by the resolutions presented by Mr. McAdoo and by the record of the speeches made at the great meeting at New York, that I take it a very simple statement of the proposition as I understand it will be quite sufficient.

I know that in the present condition of affairs there is a very great disposition—a natural disposition—on the part of Russia to divert everything from the main issue; but any man who has sat in criminal courts and tried cases will understand that shifty devices to sidetrack the main issue and get a lot of little minor points in in order to distract the attention of the jury from the great question are very commonly resorted to by the lawyer in a criminal court. But when affairs of nations, based upon international law and upon treaties are involved they ought not to be viewed in that pitifully small manner.

After all, international law, in its base, was not founded on treaties, but founded on the common morality and interest of humanity, and international law arose before formal treaties were made.

Formal treaties are but the particular expression of a more and more intimate relation between powers. We have had such a treaty with Russia since the year 1832. It was a treaty which for the time was a great advance in relations between that large and powerful European State and the United States. It provided in the frankest possible manner, and in the simplest possible language, for mutuality of intercourse in trade and in commerce among the inhabitants of the respective treaty States. Not a word was in that treaty about a discrimination as to the character of the inhabitants of either State regarding their religious beliefs. All inhabitants of both States were entitled to the benefits of the treaty. It became of much greater importance than it was at the time of this negotiation. At the time of the negotiation of the treaty, in 1832, the Jewish population of the United States was relatively small. I do not think it exceeded 50,000. Certainly it did not exceed 100,000. Now the Jewish population of the United States is 2,000,000. It has not advanced in the same proportion as the general population has, but nevertheless it is a much larger body than it was in 1832, and the questions arising under the treaty are more frequent and will become more and more complicated.

In 1867 or 1868—about 40 years ago—Russia, which had been rather quiescent on the subject, not much having happened, began to make the distinction that the Jewish citizens of the United States were not included within the terms of the treaty.

The only two sections of the treaty that have any bearing whatever on the subject are, first, a phrase in the first section, and, second, a phrase in the tenth section. A phrase in the first section says that anybody taking advantage of it must obey the laws of the state. Of course he must. We do not need a treaty for that. That is merely the writing of a truism. Everybody is subject to the laws of the state which he inhabits.

Article X was a provision respecting intestate laws, namely, that a citizen of either State might have heirs or devisees or legatees in the other State and that there might be hostile regulations preventing money or its equivalent, or land values or land, going out of the ownership of citizens of the State. You can all understand the reason for that. The soil of a State primarily belongs to the people of the State, and aliens are only allowed to hold a part of the very soil of the State by the grace of the State and by no other means.

There is no actual law which would enable an alien to own part of the soil of the State or the soil of any State of the United States.

It is merely the grace, the liberal conduct, the free thought of these States that generously concedes to persons having property rights, although they be not citizens, to hold lands or get the proceeds of them.

That was the object of the tenth section, and it reflected credit on the wisdom and on the liberality—I will not say the liberality of the United States Government, because the United States Government is founded on the broadest principles of liberality and is the missionary and the apostle of freedom and liberality to the world. We have nothing to say about that liberality, because it was to be expected. Noblesse oblige. The United States had to do it. But it was an act of liberality on the part of Russia. It was negotiated on the part of Russia by their great minister, Count Nesselrode. Count Nesselrode was not a minister like the ministers of Russia of to-day. He was a great statesman and a great diplomat. He was not even born in Russia. His father was ambassador to Portugal, and he was born at Lisbon; and his mother was not a member of the Greek Church, but a Protestant. He was baptized in the Church of England at Lisbon. So that whatever may have been his subsequent attitude toward the formalities of the Greek Church he was not of that religion, and he was a man baptized in the Church of England.

With such surroundings, when his father was transferred to Berlin as ambassador, he went to the gymnasium in Berlin and received a German education. He, in conjunction with the Emperor Alexander I, had a great notion of a kind of United States of Europe, more or less unified.

Russia, with its great territory, its great population, through its great statesmen, seemed to be the destined factor of primacy on the Continent, and the whole of Russian statesmanship was directed toward the union or league of European States in which Russia, by reason of its vast extent and of its great and increasing population, should have the primacy, and there was everything to encourage it.

Austria was composed of a large number of little States not in unity or harmony with each other. What we now call the Empire of Germany had, I think, about 200 sovereignties, some so minute that they were scarcely visible on the map. Italy was broken up in States almost numberless. So that to the west of Russia, until it reached France and the British Sea, there was a disorganized state of Europe which invited the primacy of a great power that had unity, and of course Russia was heading for European civilization. But events occurred which changed this whole current of Russian thought.

Austria was, if not absolutely, relatively unified. Italy became the United States of Italy. Germany began its wonderful progress first by its assault on Austria and then by the great war with France, that resulted in the consolidation of an Empire the like of which has not heretofore been seen on the Continent of Europe.

Of course to Russia it became obvious that the European venture was no longer possible, and therefore it turned its eyes to Asia. In order to dominate that vast Continent of Asia it became necessary to cut out every idea of freedom, every idea of modern progress, every idea of government by the people, every glimmering of the ideas for which the United States of America stands. And they

devoted themselves to that purpose with the most absolute fidelity and conscientiousness. All glimmerings of freedom had been destroyed, and when, notwithstanding all that, it became necessary to grant the privilege of a parliament, a Duma, in 1905, they only listened to that parliament for a few months and arranged it so that that parliament became a mere nothing, an excuse by which the reigning powers could refrain from doing anything they did not want to do. They would say, "We can not do it; the Duma—the 'Dummy'—has the power." A mere subterfuge. They could take the most important affairs of empire, could arrange for an adjournment of the Duma for a week, and make any ministerial orders that they wanted to with the effect of permanent law.

It is important that we understand, therefore, the relations of the powers before we begin to understand the treaty. Now, in the United States the beneficiaries of the treaty were all the citizens, and all the citizens were composed of natives of the United States, of natives of other countries who had been naturalized in the United States, but not derived from Russia, and of natives of Russia who have been naturalized in the United States.

Now, it is too simple to require any utterance that no state has any power to regulate the internal affairs of another state. We do not require the energetic protest of Russia that they will not allow the United States to regulate the internal affairs of Russia. They ought not to. No more, then, will we allow Russia to regulate the internal affairs of the United States. We ought not to.

It is for that reason, on account of the conflict of internal laws between States, that treaties are made. A treaty is a modus vivendi by which great States, recognizing their immediate inner necessities, the multiplicity of regulations required in a great State for the government of the whole State and its parts and of the divisions of its citizens, ignores all minor transactions and adopts a few general rules which shall hold as the social rules between great States. That we call a treaty.

In a treaty there are not written statutes or ordinances or decrees or private commands; there is written in a treaty nothing but what is in the treaty. The men who negotiate treaties may talk about other things, hold pourparlers, conversations, and diplomatic intercourse; they may write and they may speak; but all that is finally ended when it is incorporated in the treaty. No understanding in a written contract can be imputed to it that is not written in it. That is true not only of treaties but of contracts. Previous negotiations are swallowed up in the writing. And necessarily so. Here these conversations were in St. Petersburg. The treaty was examined by our executive department, composed of the Senate and of the President, with his Cabinet. They did not hear the conversations, which might have been carried on partly in clubs, partly on the street, partly at a dinner table. They did not want to hear them and it was none of their business to hear them. All that is relevant is in the paper, and what that paper does not say is not in it, and can not be inserted in it. That paper says that all the inhabitants of the United States have the right of travel in the domain of the other, and when it says all it means all, without any reservation other than that contained in the paper, and there is not a word or a hint, however remote, about religious affiliations or beliefs of

anybody. The only possible hint which ingenious perversion may distort into a reservation is the provision of the article that those arrangements for the inheritance of an estate shall not interfere with the laws of the empire forbidding emigration from the State, and that is all. It does not mean anything whatever on the subject of the rights of immigrants into the United States, because the treaty does not say "citizens of the United States." It says "inhabitants."

If a person has emigrated from Russia and is an inhabitant of the United States, he is entitled to the benefit of the treaty. And then they say in their saving clause, "But hold on; this man may have emigrated from Russia and be an inhabitant of the United States." That might be tortured into a meaning that we have waived in general our immigration laws, and that is all that the tenth article of the treaty means. But I am willing to grant that it means all that the most ingenious Russian quibbler can say, and that it means that no man who is expatriated from Russia would have any rights in Russia. More than that they can not ask. All of that I am willing to grant.

It is a very curious question and under it a new question in international law would here arise. We all know that authorized expatriation is application by a subject to his sovereign to be relieved from his allegience and it is a grant by the sovereign that he may be so released. But is there anyone who has heard the history of the Jews in Russia from 1890 to this very moment who can say there is only one way by which a government may give its assent to emigration? It may, it is true, give it by the formal order of clerks and departments and certificates and seals, but when without all these it uses grinding oppression, torture of the soul, torture of the body, assassination, raises mobs in hundreds of towns that slay old men at their devotions and pregnant women, and rip them up, as they did at Kishineff in 1903, who shall say that such a "civilized" state dare go before the world and say that it has forbidden emigration, when those who flee escape from these atrocities with bayonets and axes behind them?

As we say in the law, there must be an equitable expatriation, without clerks and without seals, and without certificates, and it does not lie in the mouth of a barbaric State to plead these refinements of legal practice. But grant them that—say that it is all right, that they have the right to protest against Russians coming to the United States and claiming rights under the treaty. That would only give them the right to ask a man who has a passport, "Are you a Russian?" Would it give them a right to say to them, "Do you go to the Jewish church?" What has that to do with expatriation? Why, they themselves by their consular practices, while they are fostering their industries—no, I will not call them industries; they are war powers—feebly trying to restore the groundwork of a navy which, by the mercy of God, Japan has ground into powder, are raising a detached fleet which is now used for passenger service between Libau and New York, and which are in the interests of what you might call Russian commerce, or what you might call the growth of a Russian navy; there a Jew does not need a passport. All you have to do is to buy a Libau ticket and you can go to Russia, and she thus makes the United States the accomplice in the violation of its treaties with England and France and Germany under the most-favored-nation clause by letting Russian steamships alone

carry people bound for Russia on their steamers, because Russia gives them a passport and refuses the passport to a man who wants to go on an English, French, or German steamer. That shows the sincerity of the Russian Government on the passport question. And that is not only at sea—it is true on land. If you happen to be in Japan and want to go to Europe nobody will bother about your religion if you take a ticket on the Siberian Railroad. But when you want to go by the southern route, by English and Dutch and German steamers, you will find that this anxious curiosity about the private beliefs of people is immediately restored to its pristine vigor.

Moreover, when a man takes passage by a Russian steamer they do not bother about his passport at all, but they say "We will have it all viséed for 80 cents if you will bring a certficate from your rabbi." But us, those of us who were born in the United States and who never had any knowledge of Russia other than that obtained from the map and from the atrocious pages of history, us they ask. Why, there is a gentleman on your committee whose ancestors were settled in this country before the Romanoffs were settled in Russia, Mr. Levy, and yet Mr. Levy can not get a passport—oh, yes, I suppose he could manage one by diplomatic negotiations through the distinguished chairman of this committee, who would at once put himself in communication with the Russian ambassador, and he could get a passport. I have no doubt about that; but by the ordinary and straight way of claiming his right as an American citizen he could not, although his ancestors came to New York in 1660 and never had the slightest thing to do with Russia. I can trace my ancestry back—I was going to say 300 years; we can all trace our ancestry back 10,000 years, I have no doubt whatever, with only missing a few names—but in the last 300 years my ancestors have never touched Russia, and I do not believe they did at any time, and there are in the United States more than half a million Jews in that position, either natives of this country or naturalized, from states that never had the slightest relation with Russia.

No question of expatriation, I hope, occurs with them. As for expatriation from Russia, I do not care how much expatriation would cost, I would be prepared to make the venture. It is a good country to be expatriated from. But what right have they to take our citizens, born here or naturalized here, having been born in England or France or Germany or Italy; or what right have they to have a fellow in New York who calls himself a consul or a consul general and runs an office and declares in the face of common sense and international law that his office is Russian territory? It is *not* Russian territory. It is territory that any constable can go in and distrain on for the rent if the rent is not paid.

There is only one piece of Russian sovereignty in the United States, and that is the Russian Embassy. I do not know that we are the happier for that. Besides these natives of the United States and naturalized citizens who never had any relation with Russia, there are naturalized citizens of the United States who have been formally expatriated by the leave of Russia. If we grant Russia the most that she can claim under that treaty, so that article 10 is construed to mean what it does not mean, so that article 10 means what under the necessities of the case we may perhaps be compelled to say it does mean—well, if it means that, then there simply is no treaty covering the rights of nonexpatriated Russians.

If there is no treaty, then the policy of the United States, declared by long practice and by statute, that the human right of having control of your own body and soul, of moving where your spirit leads you to move, and, moreover, of adopting the United States as your home, with its larger opportunities for the development of soul and body, true statesmanship demands that, although we have no such treaty with Russia, we should have. It is fitting that our statesmen should begin to negotiate such a treaty. No man will say nay.

But that is not the question here, whether we ought to have a treaty covering the rights of naturalized citizens who were born in Russia. There ought to be such a treaty. The time has come for such a treaty. Our population of Russians who are citizens, and 300,000 of whose children are native-born citizens of the United States, now requires that the Government heed their rights and urge a naturalization treaty with Russia.

But in doing that we must not be diverted from the question of the treaty of 1832. No question of expatriation arose when that treaty was made. No debate was put in it. They simply said—our Secretaries of State have said it—you have the correspondence before you; it will all be on your record when the real speech of the day by Mr. Marshall will be made—our secretaries have said, uniformly, that they insisted on the rights of all citizens under the treaty of 1832, and when you analyze all that the Russian Government has said, that we have been able to see or to hear, when you analyze it all it amounts to this: "Yes; we will not let a Jew come in here. What are you going to do about it?" That is all.

There is absolutely no other answer ever given by the Russian Government except that, "What are you going to do about it?"

It is fitting that great States should move with slowness and dignity. Is there any degree of dignity that requires our motion to be longer than 40 years?

In the long and weary history of Israel its wanderings in the great desert were limited to 40 years, and if we of the United States with our additional rapid-transit facilities have stood it for 40 years, it is equivalent to 400 years of wandering in the desert.

It is for that reason that we addressed the executive department three-and-a-half years ago, and we asked that an end be put to this discussion. In three-and-a-half years, with all the efforts of the President, with all the efforts of the Secretary of State, they have not been able to get the slightest answer from Russia, except, "What are you going to do about it?" And when we said that what we were going to do about it was that the United States would wash its hands of such treaty and not become an accomplice in the degradation of a class of its own citizens, they say, "You can not *afford* to do it; the treaty is for *your* benefit, not for *ours*. Your loss in money will be so great that you can not afford to do it and you will not do it."

Now, let us look at that. The first proposition is that the treaty is for our benefit. You are all men of the world. A treaty is only a bargain. The difference between that and a private bargain of merchants is that the fellows who make it are a little more astute than the ordinary merchants. That is all. Do you believe that any treaty was ever made by two great States like the United States and Russia in which the advantages were all on one side and the disadvantages all on the other? Do you believe it? Is it credible?

Is it not an insult to common sense? Is it not an imputation on our own honor and dignity? What right have we to have on our statute books a treaty that gives us nothing but advantages and gives them nothing but disadvantages? Why, we would have overreached them in that treaty. If we have such a treaty, for God's sake, let us abolish it at once. We do not want to have the reputation in the world of having cheated an innocent State like Russia in a treaty.

Well, they do not rely so much on that, but they say, "Look at the amount!" Well, I will admit that the commerce between the United States and Russia is 1 per cent of the foreign commerce of the United States. That is true. I see in a late Russian paper apparently inspired by authority—and authority in St. Petersburg may mean the minister of the interior or a police spy, you can not tell which—that it says that it is more than 1 per cent. It may go up to 1.5 per cent. Well, it may, and I admit that there may be losses if we lose that treaty. That is true. But is commerce the creation of treaties or are treaties the creation of commerce?

Do you believe that the United States sells to Russia things that it needs in its own business and wants to keep? Do you believe that Russia sells to the United States things that it wants to keep? Do you believe that Russia buys from the United States for mere gushing friendship things that it does not want to use? I do not. I believe traffic of States is governed by economic laws, that will not allow themselves in the ordinary course to be interfered with by any other consideration. I remember having read that in South Africa somebody, observing the natives, found that a certain tribe had a habit of eating dung, an unsavory habit. But the scientists who have examined it have found that salt was inaccessible to those people, and that salt is so necessary a constituent of human food that they sought it even in that loathesome form.

That will give you an idea of the true power and spring and impulse and force of economic laws. Treaties do not make economic laws; economic laws make treaties.

Undoubtedly economic laws may be interfered with by artificial political regulation. You can make an embargo and a nonintercourse act and you can perform all sorts of deviltries and interference with the progress of natural law; that you can do. And Russia may do that, and the United States may lose by denouncing this treaty. I do not stand here to deny that vindictiveness may cause Russia to take such measures that if we denounce this treaty there will be pecuniary loss to the United States. But admitting that, I am not in the position of the player who, failing to have an entirely full hand, attributed all the other trumps to the other man.

I do not believe that Russia is so eager to have a quarrel with the United States as some of its semiofficial papers might seem to indicate or some of its loose mouthpieces twitter. I do not believe it. After all, the United States (we may say it modestly among ourselves) is a power of a certain respectability, and Russia, no matter what her Asiatic outlook is, Russians are like a great many ladies and gentlemen you know; they like to stand well in society, and they have to stand well in society, and for Russia to have a denunciation of a treaty because we do not deem it consistent with ethical prin-

ciples to maintain it is to cast a slur upon Russia from which she will not recover.

She is a bully nation. We have only to look to Russia for that and see one little American from this little town of Washington who is there in Teheran defying the power of that great Russian Czar and all his backers.

Well, I do not care whether they are willing to forego social repute or whether they are unwilling, the question is up to us. I say, granted that we will lose by this, is it consistent with the honor and the dignity of the United States to adopt that low and vulgar estimate of our morals, our political morals and our social morals, that these Russian authorities would attribute to us, that all the great principles for which the Declaration of Independence, the foundations of our State constitutions, the foundation of our National Constitution, our whole social development, our abnormal growth, the complete secularity of our States, in which men of all beliefs are entitled to join, each bearing only one relation, citzenship of the United States, whether we are willing to forego a declaration of that principle because it is going to cost us some money? That, gentlemen, is up to you.

I can only say that if I had the decision of it I would let my right hand wither before I would sign a paper that would sell the United States, even if it is for 1½ per cent of our foreign commerce. [Applause.]

The CHAIRMAN. Gentlemen of the committee, the next gentleman to address the committee will be Mr. Louis Marshall, a prominent member of the legal profession of the city of New York.

STATEMENT OF LOUIS MARSHALL, ESQ., OF NEW YORK.

Mr. MARSHALL. Mr. Chairman and gentlemen, it is not my intention to make what might be called a speech. What I desire to do is to present to the committee such facts and such legal considerations as appear to me to control the determination of the question as to whether or not the Congress of the United States shall now pass the pending resolutions, and especially the resolutions which were introduced on December 4, 1911, by the chairman of this committee, which is House joint resolution 166.

As has been shown by the previous speakers, this question of the relations between the United States and Russia growing out of the treaty of 1832 is an old question. It has been pending before the various departments of this Government, before the Congress of the United States, for nearly 40 years. It has been one of the sore points, the sore spot, in our American citizenship. It has received attention from every President of the United States since Gen. Grant was the incumbent of that great office. It has received consideration from every Secretary of State and from many a session of Congress.

I have here, for the purpose of making it a part of the record of these proceedings, a complete copy of every dispatch which has passed between our State Department and Russia, or between the Secretaries of State and the United States ministers and ambassadors at St. Petersburg, which is accessible. That is, every public dispatch. It will prove of great value in the further consideration

of this question, because it indicates beyond all question, beyond all doubt, that the existence of an abuse has been recognized for 40 years.

Our Government has insisted during all that period that Russia has violated her treaty, has demanded amendments, reform, change of interpretation, and a change in application, and to-day we are just as far advanced toward a remedy, so far as diplomatic endeavors are concerned, as we were on the day when this proposition first came before the executive and legislative departments of our Government.

Mr. GARNER. May I ask you a question there?

Mr. MARSHALL. Certainly.

Mr. GARNER. How do you account for the fact that this correspondence showing that Russia has been violating the treaty for 40 years has been under the observation of the Executive and Secretaries of State, and that they have not given notice to abrogate this treaty?

Mr. MARSHALL. It is for the reason that public bodies move slowly and that there is always a tenderness on the part of one Government toward another. There is always a desire to bring about an entente cordiale without resorting to any so-called drastic measures. It is because we have received promise after promise from the Russian Government that the matter would be taken in hand and that the matter was receiving consideration, and that in due time the matter would be solved. But we have been deceived—fooled, perhaps, would be a better expression to describe the situation.

Why, in 1881, in one of the communications received by so great a statesman and so ardent an American, so patriotic a citizen, as James G. Blaine, he was informed that the matter was receiving consideration and that a commission had been appointed by the Russian Government for the purpose of taking this matter in hand. That naturally was accepted at its face value, and consequently we waited until something might come from that commission. But as we change our administrations every four years, and as the men who are incumbents of the office of the State Department are not always fully cognizant of what has been done before, and as new theories may arise in regard to such matters, and a new promise may be made, that which is promised in 1881 is entirely lost sight of in 1896 or 1906 or in some subsequent year.

Russia has told us from time to time that they have had a commission for the purpose of dealing with this matter. The question was asked only a few years ago (in 1910), What is the commission which is now dealing with it? They were informed that it was the so-called Durnovo Commission. But an able American journalist who was in Russia made an investigation and he found that the Durnovo Commission had ceased to exist years before, and still the Durnovo Commission was stated in official communications to be studying this question for the purpose of eventually giving relief.

Now, the "commissions" have passed out of existence. Commissions have ceased to deal with the subject, and now, as has been said by the previous speaker, the fault is thrown upon the Duma. The first Duma certainly did not indicate any unwillingness to deal with old matters which relate to human rights. But that Duma was by the fiat of the Autocrat of all the Russias driven out of existence, and the men who signed the Viborg manfesto were thrown into jail

and persecuted as being malefactors because they dared to stand up for human rights. The second Duma which was chosen under a different elective franchise than the first, one more satisfying to the behests of those in power, had a very short existence, and it in turn went out of existence and a new election law was prepared. The present Duma was elected under a law which was entirely satisfactory to the powers that are, and it has been permitted to exist, although its two predecessors were incontinently excluded from participation in the Government of Russia.

So we now have the Duma as the scapegoat of this question. I do not know what the next excuse will be as we are now informed that the matter is again receiving consideration. The Congress of the United States has manifested an interest in this subject. The people of the United States from Maine to Mexico have been aroused about it. The press in every State of the Union speaks in one voice upon the subject of this outrage, this insult upon American citizenship. And now Russia is prepared once more it says to take up the matter and to treat upon the subject.

Well, now, we are rather tired of that method of procedure. We, who were children when this question first came up, are now becoming gray-haired men. We have felt that the best legacy we can leave to our children is that of an unimpaired American citizenship. But as it is to-day we find that American citizens are divided into two classes—Americans and Jews—and we feel that we can not longer rest content with such a classification and that the responsibility for that classification does not longer rest with Russia, but it rests upon the Congress of the United States. Because so long as we shall permit this distinction to be made, so long as we shall permit this discrimination and this classification without taking action to put an end to it, we acquiesce in it and we become parties to it, and therefore whatever is now pending is the result of the concurrence and consent of the Congress of the United States.

Mr. GARNER. May I ask you a question in that connection?

Mr. MARSHALL. Certainly.

Mr. GARNER. It will not disturb you?

Mr. MARSHALL. Not at all.

Mr. GARNER. Could not the President of the United States notify the Russian Government, without the action of Congress, that we want to abrogate this treaty?

Mr. MARSHALL. I think if you will permit me to take up that question now I will take it up, because I am perfectly willing to speak in a disjointed manner.

Mr. GARNER. I want to know whether the President has not the power under the Constitution to notify Russia that we propose to abrogate the treaty.

The CHAIRMAN. I understand that Mr. Marshall is coming to that question later.

Mr. MARSHALL. Well, I am here simply to try to give you what information I can and not to make any speech, and I might as well take that point up now.

Mr. GARNER. I do not want to disturb your line of argument.

Mr. MARSHALL. No; it will not disturb me at all.

The CHAIRMAN. If you prefer to go on with your argument in the manner in which you have planned it——

Mr. MARSHALL (interposing). No; I think it is all right to take up this question at this point.

This brings us really to the question that was asked by Congressman Garner of Mr. McAdoo, as to what the power of Congress is in the matter, and I have prepared a short memorandum of that question to indicate what the state of the law is as to who really has the right to abrogate a treaty.

I must confess that when the matter first came to my attention I had an idea that the executive department had ample power to deal with the matter. As I have studied the matter more, I believe that the power rests in Congress, although there are precedents to indicate that on several occasions the President of the United States has given notice of the abrogation of a treaty, yet in almost every case that was followed by a joint resolution of the Senate and House of Representatives ratifying and confirming what he had done. But that the proper procedure is action by joint resolution of Congress I have no doubt.

Now, in a recent article on this subject, which has just appeared in the thirty-eighth volume of the Encyclopedia of Law and Procedure, written by Mr. Justice Day, of the Supreme Court of the United States, and by Mr. Charles Henry Butler, who is the reporter of the Supreme Court of the United States and the learned author of The Treaty Making Power of the United States, this subject of the abrogation and termination of treaties is stated as follows. It is so succinctly stated that I take the liberty of reading from that authority. It is one of the justices of the Supreme Court of the United States who gives the support of his great name to this statement.

Since a treaty is a contract, its provisions should be faithfully observed by each of the contracting parties and not disregarded or abrogated except for good and sufficient reason; but although the treaty is on its face of indefinite duration, circumstances and conditions may arise which will justify one of of the parties in disregarding or abrogating it, as where there has been a failure of consideration, where the state of things which was the basis of the treaty and one of its tacit conditions no longer exists, or where there has been such a change of circumstances as to make its performance impossible or impracticable. So also where one of the parties violates or neglects or refuses to perform the conditions of the treaty, the other may treat the obligation as terminated, but a violation of one party does not of itself terminate or render void the treaty, but merely makes it voidable at the option of the other party. Treaties can be modified, annulled, or abrogated only by those in whom such authority is vested, and not by the courts. In the United States, although the treaty-making power is vested in the President with the consent and approval of the Senate, yet as an act of Congress is equally the law of the land, and in case of conflict will control a prior treaty, it is possible for Congress to directly abrogate or indirectly render ineffective the provisions of any treaty. This it may do by a formal act or resolution directly abrogating the treaty, or indirectly by the enactment of legislation which is in conflict with the provisions of the treaty, or, where the treaty is not self-executing, by failure to enact legislation necessary to carry it into effect, or by a declaration of war.

In volume 2 of his work on The Treaty-Making Power of the United States, Mr. Butler treats of the various methods of the abrogation of treaties:

SEC. 384. *Abrogation of treaties, various methods.*—In the cases cited which have involved treaty stipulations and Federal statutes, treaties have either been, or have not been, carried into effect by subsequent legislation of Congress or statutes subsequently passed in conflict with treaties have been held to be

constitutional, and to have superseded or modified the treaty, although in many instances clearly in violation of the stipulations therein contained. There are other instances, however, in which the court has held that the treaty is not superseded or modified, but is clearly abrogated and ceases to bind either nation or the citizens and inhabitants thereof. Treaties which expressly so provide may expire by limitation of time, determined by the treaty itself; they may also be abrogated, so far as the United States is concerned, by congressional action in several different methods.

First. Either by a formal resolution or act of both Houses of Congress, approved by the President, or, in case of his refusal to approve it, passed over his veto by two-thirds of both Houses, in which case it becomes the latest expression of the legislative department of the Government, and, therefore, the supreme law of the land, and the executive department is bound to carry out the wishes of the Legislature in express terms.

Second. By legislation, not abrogating the treaty in terms, but terminating the relations existing thereunder, or rendering them impossible of continuance, by enacting legislation hostile thereto, or conflicting therewith, and which may supersede the treaty as to the special stipulations affected, or in effect abrogate it altogether.

Third. By legislation which, while it does not directly, in terms, abrogate the treaty, either in whole or in part, or by direct words suspend the operation of any of the provisions, so conflicts therewith that the doctrine of repeal by implication applies thereto as it would to statutory provisions similarly affected; it having been held by the Supreme Court that when a statute can not be rationally construed without repealing conflicting clauses of a previously existing treaty, the treaty must fall and the statute must remain as the latest expression of the legislative will.

Fourth. By a declaration of war, in which case treaties with the hostile power are either by force of the declaration suspended during the war or abrogated altogether.

The instances given in the footnotes hereto, in which these various methods of abrogating treaties in whole or in part have been adopted, are only a few instances, but they illustrate the practical application of each rule.

The effect of the abrogation of a treaty on private rights created or affected by the treaty is a matter of judicial determination.

SEC. 385. *Direct abrogation by congressional action.*—Congress has on more than one occasion exerted its legislative power to abrogate treaties and terminate the relations established thereby. Several instances are given in the notes to this section; one of the earliest cases being in 1800, when the treaties with France were abrogated on account of the unfriendly treatment of our merchant vessels by that power. In 1883, after the payment of the Halifax award, already referred to in this chapter, Congress, by resolution, directed the abrogation of those clauses of the treaty of Washington of 1871 with Great Britain, which related to fisheries and exportation and importation of fish products. In this case there was an undoubted right to abrogate the treaties, as no permanent relations or vested interests were involved or affected.

Now, for the purpose of giving further examples——

Mr. GARNER (interposing). I do not suppose anyone questions the authority of Congress to abrogate a treaty, but I think by referring to those authorities you cite as a statement of Mr. Justice Day, as well as Mr. Butler, you will see where they discuss the authority of Congress to do it and conclude that it has the authority.

Mr. MARSHALL. Yes.

Mr. GARNER. But the question I asked is, Does not the President have the authority to abrogate this treaty, and could he not do so under this vast amount of information that he has had for the last 40 years? Could not any one of the Presidents who occupied the White House during that time have abrogated this treaty?

Mr. COOPER. I have not the exact phraseology of the Constitution at hand, but it is substantially this: That this Constitution and treaties made thereunder and laws enacted by Congress in pursuance thereof shall be the supreme law of the land. A treaty is a law. It

is a statute, enacted in a certain way, and can be abrogated by a statute passed by Congress. Now, then, if a treaty is a law, how can the President of the United States abrogate it?

Mr. FOSTER. Ought he to have the power?

Mr. COOPER. Ought he to have the power?

Mr. GARNER. There are at least 20 precedents where the Presidents of the United States have done it.

Mr. COOPER. As you are a Democrat, are you in favor of the President of the United States having power to set aside a law of the United States?

Mr. GARNER. I most certainly am not; but I am speaking of his authority under the Constitution of the United States.

Mr. MARSHALL. I do not wish to take any side on that question, because we are now before Congress, which undoubtedly has the power, and whatever has been done in the past is merely historical and leads up to this present and important historic moment.

Now, as to the law, I think Congressman Cooper has stated the law pretty clearly.

I will read now from the Head Money cases (112 U. S., 598), where Mr. Justice Miller said:

> A treaty, then, is a law of the land as an act of Congress is whenever its provisions prescribe a rule by which the rights of the private citizen or subject may be determined. And when such rights are of a nature to be enforced in a court of justice, that court resorts to the treaty for a rule of decision for the case before it as it would to a statute.
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> But even in this aspect of the case there is nothing in this law which makes it irrepealable or unchangeable. The Constitution gives it no superiority over an act of Congress in this respect, which may be repealed or modified by an act of a later date. Nor is there anything in its essential character, or in the branches of the Government by which the treaty is made, which gives it this superior sanctity.
>
> A treaty is made by the President and the Senate. Statutes are made by the President, the Senate, and House of Representatives. The addition of the latter body to the other two in making a law certainly does not render it less entitled to respect in the matter of its repeal or modification than a treaty made by the other two. If there be any difference in this regard it would seem to be in favor of an act in which all three of the bodies participate. And such is, in fact, the case in a declaration of war, which must be made by Congress, and which, when made, usually suspends or destroys existing treaties between the nations thus at war.
>
> In short, we are of opinion that, so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognizance in the courts of this country, it is subject to such acts as Congress may pass for its enforcement, modification, or repeal.

The doctrine was reiterated in the opinion of Mr. Justice Field in Whitney *v.* Robertson (124 U. S., 190).

It was redeclared by the same learned justice in the Chinese-exclusion act (130 U. S., 600, 601):

> The effect of legislation upon conflicting treaty stipulations was elaborately considered in the Head Money cases, and it was there adjudged "that so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognizance in the courts of this country, it is subject to such acts as Congress may pass for its enforcement, modification, or repeal." (112 U. S., 580, 599.) This doctrine was affirmed and followed in Whitney *v.* Robertson (124 U. S., 190, 195). It will not be presumed that the legislative department of the Government will lightly pass laws which are in conflict with the treaties of the country, but that circumstances may arise which would not only justify the Government in disregarding their stipulations, but demand in the interests of the country that it should do so there can be no question. Unexpected events may call for a change in the policy of the country. Neglect or vio-

lation of stipulations on the part of the other contracting party may require corresponding action on our part. When a reciprocal engagement is not carried out by one of the contracting parties the other may also decline to keep the corresponding engagement. In 1798 the conduct toward this country of the Government of France was of such a character that Congress declared that the United States were freed and exonerated from the stipulations of previous treaties with that country. Its act on the subject was as follows:

AN ACT To declare the treaties heretofore concluded with France no longer obligatory on the United States.

"Whereas the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government and the just claims of the United States for reparation of the injuries so committed have been refused and their attempts to negotiate an amicable adjustment of all complaints between the two nations have been repelled with indignity, and whereas under authority of the French Government there is yet pursued against the United States a system of predatory violence, infracting the said treaties, and hostile to the rights of a free and independent nation:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France and that the same shall not be henceforth regarded as legally obligatory on the Government or citizens of the United States." (1 Stat. 578, c. 67.)

This act, as seen, applied in terms only to the future. Of course whatever of a permanent character had been executed or vested under the treaties was not affected by it. In that respect the abrogation of the obligation of a treaty operates, like the repeal of a law, only upon the future, leaving transactions executed under it to stand unaffected. The validity of this legislative release from the stipulations of the treaties was, of course, not a matter for judicial cognizance.

The same doctrine has been laid down in other cases. I will not weary you by reading the citations, but the proposition is absolutely uncontrovertible that the power is vested in Congress to repeal a treaty. There is a doubt, at any rate, as to whether the President would have that power. I know of only one case where the President has exercised the power without having it followed by an act of ratification by Congress.

Mr. LEVY. Would not the President have the authority under Mr. Goldfogle's former resolution?

Mr. MARSHALL. No; I think not.

Mr. LEVY. What do you say about that?

Mr. MARSHALL. I will read that in a moment. As originally introduced, it would probably have given the power.

Mr. GOLDFOGLE. Yes. The entire resolution, as introduced in 1909, was not adopted. I had incorporated in that resolution a clause providing for the abrogation of the treaty in the event Russia did not accede to our demand. The abrogation clause was not reported, but the balance of that joint resolution passed both Houses and was approved by the President.

Mr. MARSHALL. Now, coming to the precedent, I have called attention to the abrogation of treaties by the President and referred to the resolution of 1798.

There, gentlemen, you will remember, the treaty was abrogated by a joint resolution adopted by both Houses of Congress on the ground that France had interferred with our vessels and had violated its treaty with the United States. You will remember when this took place in 1798, when we were but a handful of people, not more than 4,000,000 people in the United States, France had been not a mythical

friend of the United States, but a real and actual friend of the United States, without whose assistance we might not have won our independence. And yet at that time there was so much patriotism in the United States that, even though it was France that was violating the treaty, Congress saw fit to pass a joint resolution abrogating that treaty, and even though there was not in that treaty, as there is in this treaty of 1832, a provision permitting either party to terminate it upon one year's notice. It was, as far as its terms were concerned, a perpetual treaty. Listen to what Congress said at that time. It was entitled "An act to declare the treaties heretofore concluded with France no longer obligatory on the United States."

Whereas[1] the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government, and the just claims of the United States for the reparation of the injuries so committed have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two Nations have been repelled with indignity; and whereas, under authority of the French Government, there is yet pursued against the United States a system of predatory violence, infracting the said treaties and hostile to the laws of a free and independent Nation:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States.

Approved, July, 1798.

That was over 113 years ago.

Mr. GARNER. Since that time—if you have had occasion to look up all these precedents—has Congress passed any initiative legislation before the President acted?

Mr. MARSHALL. Yes, sir; I think so.

Mr. GARNER. I wish you would put in the record a list of the cases where Congress first acted, and then a list of the cases where the President first acted, so we may draw a conclusion as to what the formal precedent has been, whether Congress should act first or the President should act first.

Mr. MARSHALL. I shall do that now. I have taken from the publication of Congress, entitled "A Compilation of Treaties between the United States and Other Powers, 1889," apppendix pages 1232 to 1237, a list of the abrogated and suspended treaties, which I treat under various heads. The first was where there was nothing in the terms of the treaty which permitted the treaty to be terminated at a particular period. I will now come to the next head, "Treaties terminated in consequence of notice given in accordance with the terms of the treaty." I believe in every one of these instances there was a joint resolution passed by Congress to that effect. I shall read some of the resolutions on that subject, which I am happy to say form a precise precedent as to form for the resolution which Mr. Sulzer has introduced, and to which I am now addressing myself. Here is a list. It is quite a long one:

I. *Treaties abrogated by act of Congress.*—Alliance with France, 1778; amity and commerce with France, 1778; act separate and secret with France, 1778; consular convention with France, 1788. The circumstances which led to the act of Congress of July 7, 1798, annulling these treaties are stated under the title "France." This act of Congress was the subject of some discussion be-

[1] Stat. L., 578.

tween the plenipotentiaries who negotiated the convention of 1800. The latter convention contained originally a statement that the plenipotentiaries could not agree respecting these treaties, and that the parties should negotiate further upon the subject. The Senate, in consenting to the ratification, expunged that article. Bonapare accepted this action of the Senate: "*Provided*, That by this retrenchment the two States renounce the respective pretensions which are the object of the said article." This was explained by the American plenipotentiary, Murray, as a "wish to get rid of both the claim to treaties and indemnities." In this sense it was accepted in its turn by the Senate, and thus the question was laid at rest, and has not been mooted since.

III. *Treaties terminated in consequence of notice given in accordance with the provisions of the treaty.*—Belgium, treaty of 1845, terminated August 20, 1858; Belgium, treaty of 1858, terminated July 1, 1875; Belgium, treaties of 1868, relating to consuls and trade-marks, terminated January 1, 1880; Brazil, treaty of 1828, terminated December 12, 1841; Chile, treaty of 1832, terminated January 20, 1850; Chile, treaty of 1833, terminated January 20, 1850; Great Britain, treaty of 1854, terminated March 17, 1866; Great Britain, articles 18, 19, 20, 21, 22, 23, 24, 25, 30, and 32 of treaty of May 8, 1871, terminated July 1, 1885; Guatemala, treaty of 1849, terminated November 4, 1874; Italy, consular treaty of 1868, terminated September 17, 1878; Mexico, treaty of amity, commerce, and navigation of April 5, 1831, and the additional article thereto. The operation of this treaty was suspended by war between the parties in 1846–47, but was revived with some exceptions by Article 17 of the treaty of February 2, 1848. Article 33 was abrogated by the second article of the treaty of December 30, 1853, and the entire treaty was finally terminated November 30, 1881, by virtue of notice given by Mexico; Mexico, naturalization treaty of July 10, 1868, terminated February 11, 1882; Ottoman Porte, commerce and navigation of February 25, 1862. See notes: "Ottoman Porte;" Peru, treaties of 1851 and of 1857, terminated December 9, 1863; Peru, treaty of friendship, commerce, and navigation of September 6, 1870, and of extradition of September 12, 1870, were terminated March 31, 1866; Venezuela, treaty of 1836, terminated January 3, 1851; Venezuela, treaty of 1860, terminated October 22, 1870.

Mr. GARNER. Now, will you put in the record the treaties the abrogation of which was first initiated by the President, then confirmed by act of Congress?

Mr. MARSHALL. Yes. I shall read rapidly a few of those cases, the cases where there was an abrogation of a treaty by joint resolution authorizing or requesting the President to act. I will read first the resolution providing for the termination of the reciprocity treaty of the 5th of June, 1854, between the United States and Great Britain, to be found in the Thirty-eighth Congress, second session, January 18, 1865, resolution No. 6 (13 Stat. L., p. 566). It is entitled, "Joint resolution providing for the termination of the reciprocity treaty of June 5, 1854, between the United States and Great Britain":

Whereas it is provided in the reciprocity treaty concluded at Washington the fifth of June, eighteen hundred and fifty-four, between the United States of the one part and the United Kingdom of Great Britain and Ireland of the other part that this treaty "shall remain in force for ten years from the date at which it may come into operation, and further until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same"; and whereas it appears by a proclamation of the President of the United States, bearing date sixteenth of March, eighteen hundred and fifty-five, that the treaty came into operation on that day; and whereas, further, it is no longer for the interests of the United States to continue the same in force: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notice be given of the termination of the reciprocity treaty, according to the provision therein contained for the termination of the same; and the President of the United States is hereby

charged with the communication of such notice to the Government of the United Kingdom of Great Britain and Ireland.
Approved January 18, 1865.

I next have the resolution for the termination of the treaty of the 17th of July, 1858, with Belgium, by joint resolution of June 17, 1874, to be found in Volume XVIII, Statutes at Large, page 287, Forty-third Congress, first session, joint resolution No. 10.

JOINT RESOLUTION Providing for the termination of the treaty between the United States and His Majesty, the King of the Belgians, concluded at Washington, July seventeenth, eighteen hundred and fifty-eight.

Whereas it is provided by the seventeenth article of the treaty between the United States of America, on the one part, and His Majesty, the King of the Belgians, on the other part, concluded at Washington on the seventeenth day of July anno Domini eighteen hundred and fifty-eight, that "the present treaty shall be in force during ten years from the date of the exchange of ratifications, and until the expiration of twelve months after either of the high contracting parties shall have announced to the other its intention to terminate the operation thereof, each party reserving to itself the right of making such declaration to the other at the end of the ten years above mentioned, and it is agreed that, after the expiration of the twelve months prolongation accorded on both sides, this treaty and all its stipulations shall cease to be of force," and
Whereas it is no longer for the interest of the United States to continue said treaty in force: Therefore,
Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notice be given of the termination of said treaty, according to the provisions of the same seventeenth article thereof for such termination, and the President of the United States is hereby authorized to communicate such notice to the Government of the Kingdom of Belgium.
Approved June 17, 1874.

I have already referred to the termination of certain provisions of the treaty of Washington which was entered into in 1871 between the United States and Great Britain. That was terminated by a joint resolution of March 3, 1883, which is to be found in volume 22 of the Statutes at Large, page 641.

That practically adopted the same phraseology as the resolutions to which I have already referred, and I could follow that up by other similar cases. I do not wish to weary the gentlemen of the committee by a mere reiteration of the language, but that is the accepted form which has been adopted where Congress has seen fit to exercise its constitutional powers of abrogating a treaty; in other words, repealing what is a part of the law of the land.

Now, I have found—I say I have found—I should say those who have cooperated with me in this matter have been asked to look for various precedents, and we have been able to find but a single case where the President himself initiated the proceedings, and that was by notice, subsequently adopted and ratified by joint resolution. A resolution was adopted on the 9th of February, 1865, and reads as follows. It related to the regulation of the naval force on the Great Lakes. You will find it in volume 13, part 2, page 568 of the Statutes at Large. It reads as follows:

JOINT RESOLUTION To terminate the treaty of eighteen hundred and seventeen, regulating the navel force on the Lakes.

Whereas the United States, of the one part, and the United Kingdom of Great Britain and Ireland, of the other part, by a treaty bearing date April, eighteen hundred and seventeen, here regulates the naval force upon the Lakes, and it was further pointed out that if either party shall hereafter be desirous of annulling this stipulation and should give notice to that effect to the other party it shall cease to be binding after the expirat[illegible]onths from the date of such notice; and

Whereas the peace of our frontier is now endangered by hostile expedition against the commerce of the Lakes, and by other acts of lawless persons, which the naval force of the two countries, allowed by the existing treaty, may be insufficient to prevent; and

Whereas, further, the President of the United States has proceeded to give the notice required for the termination of the treaty by a communication which took effect on the twenty-third day of November, eighteen hundred and sixty-four; therefore,

Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, That the notice given by the President of the United States to the Government of Great Britain and Ireland to terminate the treaty of eighteen hundred and seventeen, regulating the naval force upon the Lakes, is hereby adopted and ratified as if the same had been authorized by Congress.

Approved February 9, 1865.

Now, I have other examples where treaties have been repealed by joint resolution at the request or suggestion of the President.

I have here the treaty with regard to the occupation of Oregon by the United States and Great Britain, which led to President Polk's message of December 2, 1845, to request Congress to give him the power, by appropriate legislation, to give Great Britain the one year's notice of a desire to terminate the treaty, as required by the provisions of that treaty. That request was made.

I have also the resolution of the Senate when the President was authorized to give notice, but I do not find more than one instance of that kind.

So we have here examples of the various methods that have been employed for the abrogation of treaties and to enforce them. It has been recognized that Congress is the real power for the abrogation of a treaty, although Congress might be moved to act either by communication from the President requesting action or advising action or it might itself initiate the proceedings by passing a joint resolution, which would then go to the President, and if he did not approve could be passed over the President's veto by a vote of two-thirds of the Members of both Houses of Congress.

Mr. COOPER. Is Mr. Marshall authorized to print the list of those instances which he has not read?

The CHAIRMAN. Yes. (See Appendix III, p. 295, following.)

Mr. MARSHALL. I am reminded of the fact that in 1856 the question arose as to whether the Senate alone has the right to terminate a treaty because of the fact that the President, with the consent of the Senate—the joint treaty-making power—in 1856, as I have said, it was contended by some that the Senate alone would have the right to abrogate a treaty. But it was declared it had no right alone to abrogate a treaty and that the cooperation of the House of Representatives was necessary, and Charles Sumner took very strong ground upon that subject in a resolution which he introduced in that year. That is also upon the memorandum which I will hand in. So it will be unnecessary to weary you with the recital of the contents of that resolution.

Having reached the proposition, the point, that the power to terminate this treaty is unquestionably lodged in Congress, I now come back once more to the proposition as to whether or not facts have been presented to Congress which will require the exercise of that undoubted power or whether or not Congress is still willing to wait

the weary years until autocratic Russia will of its own accord grant the relief which we have within our power to secure for ourselves and which the situation imperatively demands we should exercise.

Mr. FOSTER. I would like to hear on that point in regards to our having the power, as I understand you, not merely to secure the passage of this resolution abrogating the treaty, but I understood you to say that we have the power to go further to grant relief?

Mr. MARSHALL. Yes. The relief is a simple thing. I do not care whether I ever see Russia. Perhaps there are a million others who are of the same mind. But I am a citizen of the United States——

Mr. FOSTER (interposing). We all recognize that, I think everyone does.

Mr. MARSHALL. Then that is all the Congress has power to do. Congress has no power by right of mandamus, after this treaty has been abrogated, to compel Russia to open its doors and let us in.

Mr. FOSTER. All you mean, then, is to abrogate the treaty?

Mr. MARSHALL. To abrogate the treaty and set us right in the eyes of the American people.

Mr. FLOOD. You think that ultimately will accomplish the desired result?

Mr. MARSHALL. The desired result is to prevent further discrimination among the citizens of the United States, not by Russia but by the United States itself.

Mr. LEGARE. In what way, in your opinion, could Russia retaliate; what effect would it have on the Jewish citizenship in Russia?

Mr. MARSHALL. The situation in Russia to-day so far as the Jews are concerned is worse than it ever has been in the history of Russia.

Mr. LEGARE. It could not be worse, in your opinion?

Mr. MARSHALL. It could not be worse. There is not a lower depth than that in which they find themselves to-day. Dante's Inferno had limits, but I think the limits of the inferno of Russia are lower than those of Dante's Inferno. If you will read an article published in the New York Times of yesterday, by Herman Bernstein, in which he quotes from a distinguished Russian about the condition of the Jews in Russia, you will have all the evidence you desire on that point.

Mr. CURLEY. I take it from your remarks that you believe the United States occupies a unique position among the nations, in this respect, that the United States is more necessary to Russia than Russia or any other nation is to the United States?

Mr. MARSHALL. I certainly believe that. But we occupy this unique position: We have never hesitated in the past to do what is right when American citizenship has been involved. We have never wavered. Even in the case of Martin Koszta, who was not even a naturalized citizen, we insisted upon the protection of his rights against a foreign country, and so far as this question is concerned, so far as it relates to the action of Congress, the real point is whether or not Congress will continue to permit a large section of the American people to remain under civil disabilities. That is the question.

Mr. GARNER. In other words, Mr. Marshall, is not this it, in effect, that it is a mere question of whether we will give up 1 or 1½ per cent of commerce in behalf of the citizenship of this Nation? It is the man against the dollar, is it not?

Mr. MARSHALL. Precisely. That was the expression used, I am greatly delighted to say, by Mr. Cooper, when we were here in February last.

Mr. GARNER. I want to congratulate New York and Philadelphia. I do not know whether you have had mass meetings anywhere else—upon putting the man ahead of the dollar. [Applause.]

Mr. MARSHALL. I feel it is the American people who are to be congratulated, who have responded to that call.

Mr. COOPER. Do you think that if Russia should demand of American citizens going over there with passports to know whether they were Protestants, whether they were Baptists or Catholics or Presbyterians or Methodists, that there would be any question about Congress passing these resolutions?

Mr. MARSHALL. Not for a moment.

Mr. KENDALL. Have you some concrete instances of discrimination?

Mr. MARSHALL. I can give them to you by the dozen. I will at this moment stop long enough to ask two gentlemen on our committee to give their experiences during this last year. I will first call on Mr. Cutler, of Providence, R. I.

STATEMENT OF HON. HARRY CUTLER, OF PROVIDENCE, R. I.

Mr. MARSHALL. I will ask you where you reside?

Mr. CUTLER. Providence, R. I.

Mr. MARSHALL. What is your occupation?

Mr. CUTLER. Manufacturing jeweler.

Mr. MARSHALL. Do you hold any public office in the State of Rhode Island?

Mr. CUTLER. I am a member of the house of representatives, and have been for the past three years.

Mr. MARSHALL. Are you a member of the State militia?

Mr. CUTLER. I have the honor of being lieutenant colonel in the First Light Infantry.

Mr. MARSHALL. How many years have you resided in this country?

Mr. CUTLER. About 27 years.

Mr. MARSHALL. How old were you when you first came to this country?

Mr. CUTLER. I was a little less than 9 years of age.

Mr. MARSHALL. Did you during this present year attempt to go to Russia and attempt to get a passport viséed?

Mr. CUTLER. I attempted to have a passport viséed, and I could give you the circumstances in connection therewith.

Mr. MARSHALL. Please give the circumstances to the committee.

Mr. CUTLER. Having been appointed by his Honor, the mayor of the city, to represent the governor, with the delegation of the Boston Chamber of Commerce in its travels through Europe for the purpose of studying civil and business conditions there and the extension of an invitation to the boards of trade and the chambers of commerce of Europe to meet in Boston subsequently, I conceived the idea that it would be a most appropriate time, if possible, to visit my native country and find out whether there was anything left of an estate in which I might have an interest, I having left Russia during the massacres of 1882, and not having any information in regard to this

estate or my relations since then. I also hoped to find out something about my relatives and to find out whether any of them are still alive. Then, also, I thought there might be an opportunity to combine business with the trip. Thereupon, I asked for a passport, through the State Department, in the regular method, and received such a passport, which I will produce [producing passport]. The day prior to sailing I visited the Russian consul at New York and appeared before the clerk of the consulate, through an error having gone into the private apartment or residence of Baron Schlippenbach, the consul general, owing to the fact that there was no sign showing just where the office was. He cordially met me and told me to go below where the office was. I appeared before the clerk and handed him my passport and asked for its visé. He then handed me an application, which I will file with the committee, which reads as follows:

Application for visé of a foreign passport for Russia.

Name ------. Where born ------. Religion ------. Business or tourist ------. Have you been a citizen or subject of any other country? ------.

Signature ------ ------.

New York ------.

Upon receiving this application I filled in the name and where I was born, which was Elizabethgrad, Russia, but I refused to fill in the line with regard to my religion. He then abruptly told me that I must fill it in, that otherwise the visé would not be considered. I denied his right to put me through this religious inquisition, being an American citizen and on American soil. The clerk then conferred with Baron Schlippenbach, and he informed me that I must fill in the line in regard to my religion.

Mr. MARSHALL. Who is Baron Schlippenbach?

Mr. CUTLER. Baron Schlippenbach is the consul general of Russia in the city of New York. The question arose as to whether I would go as a tourist or on business, and I decided that I would go on business. During the course of the conversation, having informed Baron Schlippenbach and the clerk that I was a manufacturer, representing my own firm, and that I held these various commissions, he asked me to have affidavits made to that effect, and suggested the name of a gentleman, Mr. Polevoy, a Russian attorney, who could make these affidavits for me. I told him that the time was short and that I was sailing the following day, and that I understood his office closed early in the afternoon, and that I did not think I could go there. He thereupon said if I would file with him a copy of my commission from the governor and the mayor, which I could do through this attorney, then my passport would be viséed for commercial purposes only, giving me the right of travel for six months. Upon further reflection, and a second call, I met Baron Schlippenbach, in company with another gentleman, present here to-day, Dr. Herbert Friedenwald, and I told him I had considered it fully and I had decided that I would not travel in Russia for business purposes, but only for tourist purposes, and that I would not be a party to the inquisition as to the religious faith I held. He told me I must answer that question before he could visé the passport or before a visé would be considered.

I told him that I felt that I would be violating my oath of allegiance as a citizen of the United States, my oath of allegiance as a member of the House of Representatives of the State of Rhode Island, and my oath of allegiance as a member of the State militia, and also the State constitution of the State of Rhode Island and the constitution of the State of New York, if I was accessory to this discrimination, because it was not in harmony with the fundamental principles of this Government or any of the sovereign States of the Government, and therefore I could not be a party to that act. He told me he could not help that; that he was acting under instructions from his Government. All of this was in most cordial form. Later the question having arisen as to whether I was on American soil and an American citizen, he having denied that, saying that the moment I entered the Russian consulate I was on Russian soil, Dr. Friedenwald properly replied to him that that only applied to the embassy in Washington and not to any consulate; but he insisted that that was his construction of the matter. He then turned to me and said, "Mr. Cutler, you were born in Russia?" I replied, "I was." He said, "Did you ask Russia's permission to become a citizen of the United States?" I told him no, and that I came here at an age when I was not my own free agent, that I was expatriated by the condition of the time and by reason of the massacres of 1882, that I was less than 9 years old at the time I came to this country.

Mr. MARSHALL. Did your father come with you?

Mr. CUTLER. My father did not come with me; no. I am sorry to have to go into these personal matters, and I hope you will excuse me, but I might say that my father was a merchant in the city of Elizabethgrad, and was in partners with a Christian friend. His partner came to us on the night of the massacre, and our Christian neighbors offered to hide us in the cellar upon their fields—not in their house, but in the cellar upon the fields—and our friend had placed Christian emblems upon the doors and windows of his home, such as crucifixes and ikons and pictures of the Madonna, to mislead the rabble and the Cossacks. My father armed himself, kissed us good-bye, and went to defend his place of business. That was the last I have ever seen of my father. Naturally, subsequently followed the emigration to this country.

The CHAIRMAN. Was your father massacred?

Mr. CUTLER. I do not think so, but I have no further knowledge of him. One of the matters that I wanted to investigate in Russia was to try to find out what became of him.

The CHAIRMAN. You have never heard from him since that day that you speak of?

Mr. CUTLER. I have never heard of him since. I have had rumors of him indirectly, but none directly, and I have never had a letter. That answers your question, Mr. Marshall?

Mr. MARSHALL. Yes.

Mr. CUTLER. Baron Schlippenbach asked me if I was born in Russia and I said I was. Then he asked me if I had Russia's permission to become a citizen of the United States, as I have related, and I told him the circumstances under which I left the country. I have already gone into that. Then he said, "Your parents were born in Russia?" I said "Yes." He said, "You did not become a citizen of the United States until you were 21 years old?" I said, "That is

true." He said, "Did you ask Russia's permission then?" I said, "No, sir." Then he said, "You will be considered and are considered a Russian subject, and should you enter Russia you will be amenable to the laws of Russia." I was bold enough to inquire whether that meant amenable to laws as applicable to the Jews, and he replied, "Amenable to the laws of Russia, sir." I refused to be a party to this inquisition, in consequence of which I did not get the passport viséed.

In receiving the passport from the State Department, I should state there was also this included:

> Notice to American citizens formerly subjects of Russia who contemplate returning to that country.
>
> Under Russian law a Russian subject who becomes a citizen of another country without the consent of the Russian Government is deemed to have committed an offense for which he is liable to arrest and punishment if he returns without previously obtaining the permission of the Russian Government.
>
> This Government dissents from this provision of Russian law, but an American citizen, formerly a subject of Russia, who returns to that country places himself within the jurisdiction of Russian law and can not expect immunity from its operation.
>
> No one is admitted to Russia unless his passport has been viséed, or indorsed, by a Russian diplomatic or consular representative.
>
> ELIHU ROOT.
>
> DEPARTMENT OF STATE,
> *Washington, January 25, 1908.*

Mr. MARSHALL. That was a printed circular?

Mr. CUTLER. Yes. I want to direct the attention of the committee to one phrase particularly in this circular which I have read, and that is, "This Government dissents from this provision of Russian law, but an American citizen, formerly a subject of Russia, who returns to that country places himself within the jurisdiction of Russian laws and can not expect immunity from its operation."

Mr. GARNER. That is signed by the Secretary of State of the United States, is it?

Mr. CUTLER. Yes; by Mr. Root, the Secretary of State.

Now, gentlemen, I will not take up any more time.

The matters involved in this can be better explained by the gentlemen who have preceded me and those who will follow me; but I can not lose this opportunity to say to you that there seems to be a mistaken idea on the part of the great big public, who I think have not been acquainted with the situation, owing to the quiet diplomatic course pursued for 40 years, and I regret to say that a great many editors do not know that such a condition exists—or at least did not know it until recently, and until the State of Rhode Island, which was the first State to pass a resolution asking the President and Congress to ameliorate the conditions we are discussing—there were a great many editors that had never heard, apparently, of the conditions existing, and the facts about the situation, generally speaking, did not seem to be known throughout the country. But the action of Rhode Island has been followed by similar action in other States, and such measures, such proposed action by the legislatures is now pending before a number of State legislatures that will soon convene. I can give you a list of the States which have passed resolutions asking for an abrogation of this treaty with Russia. They are Alabama, California, Colorado, Connecticut, Florida, Georgia, Illinois, Montana, Nevada, New York, Rhode Island, and Washington.

I wanted to say that there seems to be a mistaken idea because the words Jew and Jewish faith come into the discussion of the subject so much and are so prominent, and that mistaken idea is that this is a Jewish question. I deny emphatically that it is a Jewish question. I deny emphatically that it is a Russian question.

The CHAIRMAN. It is an American question.

Mr. CUTLER. Most certainly interpreted as an American question; and if I am true to my oath of allegiance to the United States, and if I believe in the history and traditions upon which this Government has been founded, and if I am patriotic as a citizen, it is my duty to protest against a shameful ignominy that has existed all of these years against American institutions. [Applause.]

The CHAIRMAN. If there be no objection, the papers referred to by Mr. Cutler will be incorporated as a part of the record.

Mr. CUTLER. Do you want the passport also?

The CHAIRMAN. Yes.

Mr. FOSTER. You recognize that in this case there is the additional question of expatriation involved?

Mr. MARSHALL. Yes; I will get to that.

Mr. FOSTER. That is not involved in this proposition. You do not pretend that we are going to try to reach that?

Mr. MARSHALL. I mean to say that our Government has from its earliest days, in its communications with Russia, insisted that it can not recognize the Russian doctrine of nonexpatriation. There is on the statutes of this country a declaration passed by Congress, approved by the President, which directly guarantees, so far as the country can guarantee, the right of expatriation.

Mr. LEGARE. I presume, from what you said, Mr. Cutler, that you did not get your passport and that you did not go to Russia?

Mr. CUTLER. I did not have my passport viséed, and I did not enter Russia, because it was pointed out to me that, had I entered Russia without my passport being viséed, I would then be violating my oaths and obligations to my country, because I may have been subject to arrest, and thereby have embroiled my Government, the United States, in a question of that sort.

(The papers submitted by Mr. Cutler are as follows:)

Application for visé of a foreign passport for Russia.

Name ———. Where born ———. Religion ———. Business or tourist. Have you been a citizen or subject of any other country? ———.

Signature: ——— ———.

NEW YORK ———.

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RUSSIA.

Notice to American Citizens Formerly Subjects of Russia who Contemplate Returning to that Country.

Under Russian law a Russian subject who becomes a citizen of another country without the consent of the Russian Government is deemed to have committed an offense for which he is liable to arrest and punishment if he returns without previously obtaining the permission of the Russian Government.

This Government dissents from this provision of Russian law, but an American citizen, formerly a subject of Russia, who returns to that country places himself within the jurisdiction of Russian law and can not expect immunity from its operations.

No one is admitted to Russia unless his passport is visèed or indorsed by a Russian diplomatic or consular representative.

ELIHU ROOT.

DEPARTMENT OF STATE, *Washington, January 25, 1908.*

This is the circular I received with my passport No. 49536, mailed to me May 1, 1911.

HARRY CUTLER.

NEW YORK, N. Y., *May 10, 1911.*

[Good for only two years from date.]

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I, the undersigned, Secretary of State of the United States of America, hereby request all whom it may concern to permit Harry Cutler, a citizen of the United States, safely and freely to pass, and in case of need to give him all lawful aid and protection.

Description: Age, 36 years; stature, 5 feet 11 inches, English; forehead, large; eyes, dark brown; nose, broad; mouth, large; chin, medium; hair, dark brown and gray; complexion, dark; face, nothing unusual.

Given under my hand and the seal of the Department of State at the city of Washington, the 1st day of May, in the year 1911 and of the Independence of the United States the one hundred and thirty-fifth.

[SEAL.] P. C. KNOX.

Signature of the bearer:
HARRY CUTLER.

[No. 49536.]

The CHAIRMAN. The next speaker is Mr. Leon Kamaiky, of New York.

STATEMENT OF MR. LEON KAMAIKY.

Mr. MARSHALL. What is your business, Mr. Kamaiky?

Mr. KAMAIKY. Publisher of the Jewish Daily News.

Mr. MARSHALL. Is that a paper with a Jewish circulation?

Mr. KAMAIKY. It is.

The CHAIRMAN. It has the largest circulation of any Jewish paper in the United States, has it not?

Mr. KAMAIKY. Yes, sir.

The CHAIRMAN. And it is published in my district?

Mr. GOLDFOGLE. No; Mr. Kamaiky suggests that it is my district.

Mr. MARSHALL. How long have you been a citizen of the United States?

Mr. KAMAIKY. For 21 years.

Mr. MARSHALL. You came from Russia, did you?

Mr. KAMAIKY. Yes.

Mr. MARSHALL. Did you make a visit to Europe with your wife this last summer?

Mr. KAMAIKY. Yes.

Mr. MARSHALL. Did you get a passport?

Mr. KAMAIKY. Yes.

Mr. MARSHALL. Have you that passport with you?

Mr. KAMAIKY. Yes.

Mr. MARSHALL. Will you please produce it?

Mr. KAMAIKY. This is it [producing passport].

Mr. MARSHALL. Did you make application to have it viséed?

Mr. KAMAIKY. I did more than make application. I tried to use some influence; and the chairman of this committee, Mr. Sulzer, tried his best with the Russian ambassador and the Secretary of State, and even the President, I understand, to have my passport viséed. He can give you more information than I can in regard to that.

Mr. MARSHALL. Notwithstanding all that and your request, was it viséed or not?

Mr. KAMAIKY. It was not.

Mr. MARSHALL. What was the reason?

Mr. KAMAIKY. Well, on account of my religion.

Mr. MARSHALL. Did you subsequently visit London?

Mr. KAMAIKY. I visited London; and I went in there to the Russian consul, and I presented my passport and he viséed it.

(Following is the transliteration and translation of Mr. Kamaiky's passport:)

No. 2754. Vizirovan Imperator-Skim Rossiyskim Generalnym Consulstvom v Londonye Severo-Americanskomu Grazhdaninu Yevreyu Leonu Kamaiky otpravlyayushchemusya v Rossin po toryovym dyelan srokom na Shest (6) myesyatzeu v kachestvye predstavitelyu Sugar Products Company v New Yorkye.
London 13/26 Yulya 1911g.
Ya Generalnavo Consula,

E. GAMBS.

[Translation.]

No. 2754. Viséd by the imperial Russian consulate general in London to Leon Kamaiky, a citizen of the United States of North America, a Jew, who is going to Russia on commercial business for the term of six months in the capacity of a representative of the Sugar Products Co., of New York.
London, July 13–26, 1911.

E. GAMBS, *Acting Consul General.*

[Seal of the Russian Consulate General.]

2 rubles 25 kopecks (4 shillings 10 pence.)

Mr. MARSHALL. But you could not get it viséed in the city of Washington by the representative of Russia in this country?

Mr. KAMAIKY. No.

Mr. MARSHALL. And you used all this influence for the purpose of having it viséed?

Mr. KAMAIKY. Yes.

Mr. MARSHALL. Did you go to Russia?

Mr. KAMAIKY. I did not.

Mr. MARSHALL. Why?

Mr. KAMAIKY. Because this passport is for myself and my wife. They had it viséed for me, but not for my wife, and I did not want to go and leave my wife behind.

Mr. KENDALL. What is the inference from what you say? Why should the Russian Government refuse to visé it here, and yet you were able to have it viséed in London?

Mr. KAMAIKY. I do not know. It seems to be harder to get it done in this country than in European countries.

Mr. GARNER. Is it not a fact that more Russian Jews immigrate to this country than to England?

Mr. KAMAIKY. I suppose so.

Mr. GARNER. May not that have something to do with it?

Mr. MARSHALL. I do not see that that is particularly logical. There is perhaps this reason: That there are entangling alliances between Russia and England, that there are secret treaties with England, and there are no such treaties or alliances between Russia and the United States. We do not have the benefit of any such treaties, notwithstanding there is the most-favored-nation clause in the treaty of 1832.

Mr. FLOOD. It shows a greater discrimination against us than against England.

Mr. KAMAIKY. Precisely.

Mr. GARNER. If you abrogate this treaty, is it not calculated to call to Russia's attention the discrimination against the United States, or the Jews of the United States? Is not that the real good to come from it? I think that was brought out by Mr. Foster's question.

Mr. MARSHALL. Precisely, and notifies Russia of our established policy, and we tell Russia that rather than continue under existing conditions we would prefer not to have any treaty at all.

Mr. FOSTER. And you had no idea that it would lessen our commercial business even 1 or 1½ per cent?

Mr. MARSHALL. No.

Mr. FOSTER. So it does not involve the dollar as against the man after all, does it?

Mr. MARSHALL. It merely indicates that if we do not take action for fear of those consequences, that we do place the dollar above the man, and the test of whether we place the dollar above the man is before this Congress, whether they will abrogate the treaty or not. If it will not abrogate the treaty it would seem to indicate that Congress does place the dollar above the man.

Mr. GOODWIN. What effect would the abrogation of the treaty have, in your opinion, as to the attitude or feeling on the part of Russia toward the Jews? Could it be intensified any more than it is now?

Mr. MARSHALL. I do not think it could be worse. I do not believe Russia will, in the face of any action by the United States, resort to massacres and so on, but if it does, the Jews have been accustomed to such treatment for many years, and they will not shrink from that. And if it does, then the world will know what Russia is. I do not believe that Russia, in the face of action by the United States, would dare to increase the pressure upon the Jews, to make the pressure greater than now exists.

Mr. GARNER. By turning to the twelfth section of this treaty you will see that there has been some question as to when we should give notice of abrogation of the treaty and when it would go into effect.

Mr. MARSHALL. Yes, sir.

Mr. GARNER. I would like to have you tell the committee your judgment of the construction of that provision.

Mr. MARSHALL. Well, my idea until a few days ago was that that meant a year's notice. There is something ambiguous in the language used in that article which would justify the interpretation that the year would have to begin on the 1st of January subsequent to the giving of notice. Therefore, if we gave notice before the 1st of January this year the treaty would end on the 31st day of December, 1912. If we gave notice after the 1st of January it might not expire until the 31st of December, 1913. There is that contention made and there is that danger. The language used is not clear.

Now, concrete instances have been called for. I can give you hundreds of them. There is the case of Rev. J. Leonard Levy, of Pittsburgh, formerly of Philadelphia. He was born in England and came to this country. He was not a Russian citizen. He was under most trying circumstances prevented from entering Russia. In fact there was danger to his life if he was not permitted to get to Odessa, and nevertheless he was refused a visé of his passport.

But, see what the State Department says in regard to this matter. How has the State Department construed Russia's action? It has not considered it as affecting merely Jews born in Russia. That is only a secondary thing. That is really beside the question.

Here is the circular issued by the Department of State on May 28, 1907, just preceding the circular which Mr. Cutler a while ago called to the attention of the committee. That was a modification of the original notice. That notice, after containing the provisions which Mr. Cutler referred to, says:

Jews, whether they were formerly Russian subjects or not—

and that means an American Jew born here or in England or Germany or France—

are not admitted to Russia unless they obtain special permission in advance from the Russian Government, and this department will not issue passports to former Russian subjects or to Jews who intend going to Russian territory unless it has assurance that the Russian Government will consent to their admission.

This is an admission by our Government that Russia's contention affected not only Russian-born citizens of the United States but all citizens of the United States if they are Jews. What more concrete instance can you require?

Mr. KENDALL. Was that circular recalled?

Mr. MARSHALL. Yes; this was recalled as the result of a letter I wrote in conjunction with Mr. Edward Lauterbach to the State Department, indicating that that was the first time that Jews have been segregated from the mass of citizens in that way.

Mr. KENDALL. And it was subsequently recalled?

Mr. MARSHALL. It was subsequently recalled; but the circular to which Mr. Cutler has called attention was issued in it place, and Mr. Lauterbach and I felt constrained to once more call the attention of the State Department to Russia's violation of the statute of the United States, because in that notice it is stated that "An American citizen, formerly a subject of Russia, who returns to Russia places himself under the jurisdiction of Russian law and can not expect immunity from its operations." I then called the attention of the State Department to this provision of the United Revised Statutes for the purpose of indicating that all citizens have the right of immunity under that law and to protection. This is the language of Congress, which has never been departed from and which continues to be the law of this land:

SEC. 1999. Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing all allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be

promptly and finally disavowed: Therefore, any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic.

SEC. 2000. All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this Government the same protection of persons and property which is accorded to native-born citizens.

SEC. 2001. Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

Here is a declaration of the American doctrine of the right of expatriation which has been observed by our country from the earliest days. That is the doctrine which our State Department has called to the attention of Russia's state department year after year. It was done by Secretary Blaine; it was done by Secretary Olney; it has been done by all the Secretaries of State of every political complexion. They have all united in that interpretation of our rights and in pressing that to the attention of Russia——

Mr. KENDALL (interposing). You directed the State Department's attention to these statutes?

Mr. MARSHALL. I did.

Mr. KENDALL. And what response did you get?

Mr. MARSHALL. The response was that the State Department withdrew the second circular, the one to which Mr. Cutler has called your attention. But I would like to state that during the present year that same circular was once more issued. Mr. Cutler got that circular during 1911, although it was dated 1908.

Mr. GOLDFOGLE. At this point I want to say, in order that the facts may accurately appear, that after the offensive circular of May 28, 1907, was issued by the State Department, my colleague from New York, Mr. Harrison, then on the Foreign Affairs Committee, protested vigorously against that very offensive and insulting circular, and as a member of the Committee on Foreign Affairs, on the floor of the House, he supported the resolution that I introduced, calling the attention of Congress to this offensive matter in the circular and demanding its recall. I protested at the Bureau of Citizenship against that offensive clause, to which Mr. Marshall has called attention, and Mr. Harrison, in a very strong and vigorous address made in the House of Representatives, explained the entire matter and entered for himself, as well as for myself, the introducer of the resolution, and for others, a protest against any such circular emanating from an American State Department.

Mr. COOPER. That is a very important statement that you have just made. This circular of 1907 you declared objectionable, and it was withdrawn?

Mr. GOLDFOGLE. Yes.

Mr. COOPER. And you say that a copy of it was received in 1911?

Mr. MARSHALL. Yes; the same circular was received by Mr. Cutler in 1911—that is, I mean the second circular of January, 1908.

Mr. COOPER. Bearing the same date?

Mr. MARSHALL. Bearing the same date. I will add to that that the State Department in 1911 under the date of March 30 and over the signature of the present Secretary of State, republished that same circular of January 25, 1908, which was said to have been withdrawn as the result of the correspondence to which I have referred; but I understand that subsequently that circular has since then again been "withdrawn" by the State Department.

Mr. COOPER. Which was the first offensive circular?

Mr. MARSHALL. The first offensive circular was the circular dated May 28, 1907.

Mr. COOPER. When was that withdrawn?

Mr. MARSHALL. That was withdrawn by the substitution of the circular of the 25th of January, 1908.

Mr. COOPER. In what manner?

Mr. MARSHALL. By the issuance of the circular just referred to in place thereof.

Mr. KENDALL. This one [indicating]?

Mr. MARSHALL. Yes; that is the one that Mr. Cutler referred to.

Mr. KENDALL. As having been issued by the Department of State on May 1, 1911?

Mr. MARSHALL. Yes. Mr. Cutler received that circular May 1, 1911. That was the circular issued on January 25, 1908, by the Secretary of State, Mr. Elihu Root. That was, however, withdrawn by the State Department, at least the then Acting Secretary of State, Robert Bacon, gave notice that he would withdraw it, in a letter dated the 18th day of February, 1908. At that time they said they eliminated from that circular the words that "an American citizen formerly a subject of Russia who returns to that country places himself within the jurisdiction of Russian law and can not expect immunity from its operation."

Mr. KENDALL. Did the circular which Mr. Cutler received in the present year contain the objectionable words which had been supposedly eliminated from the objectionable circular of 1908?

Mr. MARSHALL. Yes. He got the very same circular issued by Secretary Root on January 25, 1908.

Mr. KENDALL. There was no difference?

Mr. MARSHALL. There was no difference.

Mr. KENDALL. That included the objectionable words?

Mr. MARSHALL. Yes. Almost concurrently with the issuance of the passport to Mr. Cutler there was also issued a circular in the same objectionable phraseology by the present Secretary of State, Mr. Knox, under date of March 30, 1911. We are informed that that circular has since been withdrawn, but we have no absolute knowledge of that fact.

Mr. SHARP. What evidence have you by correspondence that any one of these circulars was formerly withdrawn?

Mr. MARSHALL. In the first place, I had a letter from Mr. Root, saying that the circular of 1907 was withdrawn. In that circular he inclosed a copy of this second circular of January 25, 1908, asking me whether that was satisfactory. I answered it was not, and indicated in what respect it was not, calling attention to the fact that it violates sections 1999, 2000, and 2001 of the Revised Statutes.

Thereupon I was informed by Mr. Bacon, the Acting Secretary, that they had issued a new circular which eliminated those objectionable words.

Mr. SHARP. Will that correspondence be made a part of this record?

Mr. MARSHALL. Yes, sir.

Mr. SHARP. Have you it there?

Mr. MARSHALL. Yes. It is in the pamphlet "The Passport Question." It was included in those papers. I will leave that as part of my argument. (See appendix II, pp. 240–243.)

You have asked for concrete cases. I do not suppose that anything more is required on that proposition—where we find that our State Department has recognized the fact as to what is condition of things and has been the condition of things, and when this correspondence which I have put in evidence indicates that the very ground of contention was that there had been a persistent violation of the treaty for nearly half a century.

The very first case was the Rosenstraus case, which arose in 1873. The case of his brother arose some six years later.

In both of those cases they were natives of Wurttemberg. They had never been Russian citizens; they had become naturalized citizens of the United States and went to Russia on business, and our protests were lodged in the State Department in regard to those cases. They were the test cases of citizens who were non-Russians having trouble. In fact, before 1881, when this question first arose, there were comparatively few Russian Jews in the United States. The largest number, practically 90 per cent of them, had come from other countries or were born in this country, so that this whole question commenced as a question which affected the rights of American citizens who were not of Russian birth, and this other question of expatriation, while it has bearing upon certain phases of the question is only one of the side issues and one of the collateral questions which are here involved. The great question here is, I repeat, the great American question is, as to whether or not there is to be equality before the law, whether or not there is to be freedom from discrimination as to all citizens of the United States, whatever their race, whatever their religion, whatever the land of their nativity.

The CHAIRMAN. Have you anywhere near concluded, Mr. Marshall?

Mr. MARSHALL. No; I have a great deal more to say on certain aspects of the case.

The CHAIRMAN. In that case, have you any objection to suspending now until 2 o'clock to give others a chance?

Mr. MARSHALL. I will be very glad to do so.

The CHAIRMN. I ask that because there are some gentlemen here who have to go away.

Mr. MARSHALL. I will be glad to have that done. There are certain objections made by Russia, which I think will require an answer, and I am very desirous of presenting the whole case in all of its various aspects.

The CHAIRMAN. Gentlemen of the committee, when we suspend after hearing the next speaker, we will take a recess until 2 o'clock.

The CHAIRMAN. Gentlemen, the next speaker is the Rev. Donald C. McLeod, a Presbyterian clergyman, of Washington, D. C.

STATEMENT OF REV. DONALD C. McLEOD, OF WASHINGTON, D. C.

Mr. McLEOD. Mr. Chairman and honorable members of the committee, I regret exceedingly that Judge Marshall's speech was discontinued, because what he was saying and what he was about to say is much more important than anything I have to say.

This question I am sure has been discussed already so intelligently and profoundly by men who are experts on the subject that it is almost unnecessary that I should say anything at all, and I assure you that I will not trespass very long upon your time.

I believe my only justification for saying anything at all at this time is that I am a plain citizen of the United States, and while I speak only for myself this morning, strictly speaking, yet I believe in the broadest sense that the same sentiments that actuate me in this matter are influencing the great mass of the plain American citizenship throughout the country, as they are becoming more and more acquainted with this great question that is before us.

Let me say that we are only becoming acquainted with the question and only beginning to realize that this question before the American people is a question of great importance, and learning about it as they are now doing, they will proceed to increase their knowledge until they know all about it.

I take it that you honorable gentlemen are not wholly indifferent to what the plain citizens of this American Nation are thinking about. It is something that is of importance to us all, and I believe that there is one thing that will always set the intelligent, plain citizenship of this Republic to thinking, and to thinking seriously, and not only to serious thinking, but also that will set them to action every time, and it is this: Whenever the dignity and honor of this Government are at stake, and whenever the privileges and the rights and the liberties of an American citizen are at stake, then the plain citizenship of this Republic will do serious thinking and will do earnest and, if necessary, self-sacrificing actions.

This, I believe, first of all, because of the exalted patriotism of the average American citizen, and, second, because of a justifiable element of selfishness that enters into human life, because we all recognize the fact that if one class of American citizens, because of their religion, or because of their race, can be discriminated against and can have injustice done to them without any protest on the part of the Government of the United States, then the time can come, and may be expected to come, when the same injustice and discrimination may be used against some other class because of their race or because of their religion.

I simply want to call the attention of the committee briefly to something that is so patent and so plain that I am hardly justified in speaking of it at all. This great question that is before you is brought under the light of certain great principles that underlie the Government of the United States and the institutions of the United States which are known. The plain citizen who does not know the Constitution by memory and who may not be able to interpret the Constitution according to the judgment of the Supreme Court of the United States, nevertheless is familiar with certain great principles underlying the Constitution and underlying the institutions of our

Government; there are certain such principles which are known to the plain citizens of our country, and this question that is before us this morning comes under the blazing light of those principles.

The first is this: That no American citizen shall suffer in his right and in his privileges and in his liberties because of the accidental circumstances of his race or of his religion. We all know this. It is one of the great principles that run right through the Declaration of Independence.

Now, the second great principle is this—and I believe we all recognize it—that the greatness of any State is largely determined, not altogether determined, but I believe that the greatness of any State is determined largely, and it is determined vitally, by the ability with which that State will maintain and protect its citizens in the exercise of their privileges, rights, and liberties, not only upon the sacred ground of our own Nation, but whenever those citizens may in the providence of God find themselves anywhere on the earth; and the nation that is not able to protect its citizens in the exercise of their rights and liberties will not have the highest respect nor the truest loyalty of its citizens.

Now, the next principle is this: That the highest test of the honor, or one of the highest tests of the honor and dignity of a State, is the willingness and the readiness with which at all times, with all patience and all wisdom, but yet with all power, it will be ready to see to it that in every legitimate way its citizens will be protected in the exercise of their rights and of their liberties. I am sure that this American public is ready to stand up to these tests. We have the ability to protect our citizenship in the exercise of their rights and privileges, not only in their own country but wherever they may be throughout the world. I am sure the Nation is ready to stand by the rights of its citizens and also will protect the weak everywhere, whether they are citizens of our own country or not.

I recognize the particular point that has been emphasized so eloquently by Mr. Marshall and which is the central idea of the resolution of the chairman of this committee, that the thing to appeal to and that is appealing to the plain citizens of the United States at the present time, as they are becoming acquainted with the situation, and the thing that appeals to us is that our own Government seems to be a party to these discriminations that are being made against a class of our citizenship because of the circumstances of race or religion. Now, we can not afford to be placed in that position. We are not supposed to discriminate against any class of our citizenship, but, on the contrary, we are supposed to do all in our power, patiently and yet strongly, to protect our citizens in the exercise of their rights and liberties.

I think that in view of these circumstances the only thing we can justifiably do, after we have used all patience and all earnestness and all reason with the Russian Government—which evidently has been done during the process of 40 years—is to abrogate this treaty and place our own Government right with all our citizens. In doing this we will not only be doing justice to this particular class of our citizenship that is suffering at the present time, but we shall be guaranteeing, as far as we can in this particular respect, that in all time to come justice shall be done to every class of American citizenship without regard to race or religion.

The CHAIRMAN. I suppose you are aware of the fact that Russia also discriminates against Catholic priests and Baptist ministers and Presbyterian divines?

Mr. TOWNSEND. I suppose it is the purpose of the committee to print this diplomatic correspondence which has transpired?

The CHAIRMAN. Yes, sir. That will go into the record as part of Mr. Marshall's remarks. (See Appendix I, pp. 105 et seq.)

Mr. TOWNSEND. Mr. Marshall, I think, overlooked to ask that it be made a part of the record.

The CHAIRMAN. Gentlemen, before we take a recess Rev. Dr. Joseph Silverman, of New York City, desires to address the committee upon this proposition.

STATEMENT OF RABBI JOSEPH SILVERMAN, OF NEW YORK CITY.

Mr. SILVERMAN. In the Mosaic code we are taught, "There shall be one law for all of you, for the native born and the stranger." Upon that principle the American Constitution was founded; this country was built. For the application of that principle our law went to war against the mother country. For the maintenance of that inalienable right of man to equality before the law the Union waged a bitter war against the Confederacy. Our country has sought to preserve the right of all its citizens at home and abroad. In one notable instance we regret to say our country has failed. We are here to-day as representatives of 2,000,000 American citizens to lay our grievance before Congress—that our country has signally failed in securing for us the same equality before the law of the land that our fellow citizens enjoy. Two million Americans are being daily insulted by Russia; are being daily humiliated and held up to the reprobation of the world; are being told that they are not worthy of entrance into Russian territory; are thus being classed with outcasts whose presence in any country would be undesirable. We have stood these insults for 40 years. The situation is to-day intolerable. The time has come when patience ceases to be a virtue; when it is tantamount to weakness and cowardice.

We have come to our Government respectfully to ask for justice. This is our only country; the American Constitution is our law; the American flag is our flag. We ask that Congress secure for us protection against Russia's discrimination; that Congress insist, with all the force at its command upon a just and equitable interpretation of the treaty between America and the Government of Russia. A fundamental principle of our Constitution is at stake—the honor of our nation is being besmirched. Let us remember that the rights of the least, of the humblest of our citizens should be of concern to the Nation. No one is absolutely free unless all are free. No one receives full justice unless all receive it. Gentlemen, we pray for your gracious consideration of our plea for justice.

We favor the adoption of the Sulzer resolution to abrogate the treaty.

Mr. MCADOO. I want to ask one question. May we have permission to incorporate in the record resolutions of that mass meeting and the speeches made there?

The CHAIRMAN. If there is no objection, the proceedings of the mass meeting in New York City will be incorporated in the record as a part of Mr. McAdoo's remarks.

The committee will now take a recess until 2 o'clock p. m.

AFTER RECESS.

The committee met pursuant to the taking of recess.

The CHAIRMAN. We will hear first from the Hon. Jacob H. Schiff, of New York.

STATEMENT OF HON. JACOB H. SCHIFF, OF NEW YORK CITY.

Mr. SCHIFF. Mr. Chairman and gentlemen of the committee, I am sure it would be an endeavor to carry coals to Newcastle if after the masterful exposé of this subject by the gentleman from Philadelphia, Judge Sulzberger, and Mr. Louis Marshall, I would attempt to say anything further on the development of the question that is before us. In the few minutes which I have at my disposal I would like to utilize the time to show you how little progress this entire question has made as a result of the manner in which it has thus far been treated.

I put from consideration the long decades before the last administration came in. You know how all Republicans, Democrats, and minor political parties all united in the last two campaigns to promise that something effectual should be done. And but poor progress has been made. I have here in my pocket a letter from Mr. Secretary Root, which he wrote me of his own accord. Not because of any question I had put to him, or anything I had written to him. He wrote me at the end of his last administration in the Department of State. He was speaking of two cases. He begins his letter, which is dated the 19th of October, 1908, as follows:

MY DEAR MR. SCHIFF: There are two matters about which you have shown an interest and which I should like to have clearly understood.

I can only assume, since he opens this way, that he wanted to show that he had been a good steward of the important matters in question which had come under his administration. Then he goes on and speaks of the Pouren case, which, as you remember, was agitated in about 1906 or 1907, by the people of the United States, which question involved the matter of whether a political offender should be returned to Russia upon the demand by that Government. I will not take the time of the committee to read this, because this is old history. Then he passes to the passport question and said:

The other matter relates to securing from the Russian Government equality of treatment of all American citizens who seek to enter Russia with passports, without regard to their creed or origin.

Our Government has never varied in its insistence upon such treatment, and this administration has repeatedly brought the matter to the attention of the Russian Government and urged the making of a new treay for the purpose of regulating the subject.

We have but recently received an unfavorable reply to this proposal, and we have now communicated to Russia an expression of the desire of this Government for a complete revision and amendment of the treaty of 1832, which provides for reciprocal rights of residence and travel on the part of the citizens of the two countries. We have expressed our views that such a course would be

preferable to the complete termination of the treaty, subjecting both countries to the possibility of being left without any reciprocal rights whatever owing to the delay in the making of a new treaty.

The course which the administration is following in this respect is the one which appears to use to be best calculated to attain the end desired, an end as to which I beg to assure you the administration is in full and sympathetic agreement with you."

Now, gentleman, this is a chestnut that has come down through the centuries. This question has always been in the same position at the end of every administration. Every administration has claimed it has done the best that was practicable. But that has not been the case. The best that was practicable was never done; and whatever has been done has not been done at the time it should be done. The best that is practicable is to honor and vindicate the dignity of the American people as against Russia and all that Russia stands for.

Gentlemen, just think of it! If any of you who may happen to confess the Jewish faith, any American who accidentally was born of Jewish parentage, wants to go to the Far East to-day, and wants to take the shortest route, he takes the Trans-Siberian Railway. When he comes to the Russian border he is told "No thoroughfare." Just think of it, gentlemen, just think of what that means to an American. In 1914 or 1915 our Panama Canal will be completed—that great contribution which the American people are making to civilization and to the civilized world. That will be then open to the commerce of the world. Let us suppose that a Russian steamer comes to the gates of the canal and may be told "You can not pass through." What a howl there would be on the part of the civilized world. You see the simile. Are you going to stand for this?

Gentlemen, I have finished, and I have only this to beg of you in conclusion. I have little fear that a committee composed as this committee is composed, of high-minded men, of what the report of this committee will be; but if you wish to vindicate the dignity of this Congress, the dignity of the American people, make your report unanimous. [Applause.]

The CHAIRMAN. The committee will now hear from the Hon. Oscar S. Straus.

STATEMENT OF HON. OSCAR S. STRAUS, OF NEW YORK CITY.

Mr. STRAUS. Mr. Chairman and gentlemen of the committee, I will consume but a very few minutes of your time. It seems to me the subject has already been very clearly presented to you, and, besides, I know that a number of you gentlemen have already given careful consideration to the subject and have also presented it from its various points of view.

The question, it seems to me, is a very simple one, free from any technicalities, and one that is apparent and based upon principles that are universally acknowledged. In this country everyone will agree that under our laws and under our system of Government we have no right to make any discrimination between our citizens based upon creed or upon religion. That is a fundamental principle of the American system and ideals of freedom.

In 1832 we made a treaty with Russia. By that treaty the Government of that time believed—in fact, they knew when they made that

treaty—that it was not in conflict with any of the fundamental principles of our Government or system or ideals of liberty. The treaty went along for a number of years, and no questions that would bring up that subject arose. About 40 years ago Russia—the bureaucracy of Russia—took it into its mind to construe that treaty as giving it a right to discriminate as to citizens of the United States, based upon creed and religion.

Our Government, of course, has never acceded to that interpretation of that treaty. In fact, it could not accede to it. Our Government has gone further at times and has stated, "We have no power in this country to discriminate as to our people upon the basis of creed or religion, and we can not permit any other nation to make that discrimination for us."

This question forcibly came up in the famous Keily case. Mr. Keily was sent, under the Cleveland administration, as our minister to Austria. The reply of Secretary Bayard to the Austrian Government in that case is one of the most forcible expositions of that principle of freedom by our Government.

Now, Russia has gone on, in these 40 years, making this discrimination. In other words, interpreting this treaty, which is the highest law of the land, as permitting it to refuse admission into the Russian Empire of certain classes of our citizens—Jews, clergymen, Catholic priests, and missionaries.

The negotiations that have taken place since that time you are familiar with, and they have been referred to. Now, an old question takes on quite another form, which is a purely American question—that having again and again had concrete cases of American citizens, native born and naturalized, who have desired to go into Russia for business and for other purposes have been refused the right of going there. The only wonder will be in the future that we have for so long a time acquiesced, not by word but by allowing to continue the existence of this interpretation of the treaty of 1832 by Russia. That acquiescence on our part—that is, by carrying on these negotiations and not bringing them to a conclusion—is sorely reflecting upon our citizenship.

It has been again and again said that this is not a Jewish question. Of course it is not a Jewish question. We are not here in any other capacity than to vindicate the rights of American citizens pure and simple. And as long as we delay taking suitable action we are concurring and acquiescing in a violation of one of the fundamental principles of our Government. I think that is very plain.

Now, as to the course to follow. That is very plain, very simple. We have made this treaty with Russia. We have observed it on our part on every occasion without any exception. She has violated it on her part on every occasion. Their treaty provides—and if it did not provide we still would have the right of terminating it—but that treaty distinctly provides that either party may, after its first seven years upon a notice of 12 months, terminate the treaty. That right being in the treaty and we not using it, that makes our acquiescence in the violation of rights of American citizens more emphatic on our part, and it seems to me such a simple question, such a manifest duty on our part to give notice that if you, Russia, insist, as you have insisted, that this treaty means that you have a

right to make this discrimination, we distinctly inform you that we can never accede to such an interpretation, and, further, that the treaty itself does not warrant any such interpretation.

So it is not a very extraordinary thing, in foreign relations, in our own foreign relations, as has also been pointed out by Mr. Marshall. If we give notice to the Russian Government that this treaty must be terminated, that is so simple and that is so manifestly our duty, that now that the subject has become one which is being made clear to Congress, I can not possibly see why we should for a moment delay taking the action which we are not only justified in taking but which the treaty itself provides we have a right to take.

Dr. McLeod this morning, the minister of the Presbyterian Church, stated that this was not a Jewish question, that it was equally a Presbyterian question. He did not know when he made that statement, I presume, how distinctly it is a Presbyterian, a Congregational, a Protestant, and a Catholic question. I will give you an illustration, an example, how it is a question that effects the Presbyterians equally with any other class of our citizens.

In 1908, during my second mission to Turkey, a number of our American instructors in the various American schools and colleges in Turkey, as it was their custom, returned to the United States to visit their families, and upon their return to Turkey from the United States, arriving in Constantinople, they were held there by the Turkish Government, which Government refused to give them a passport or a teskeré, which is the Turkish name for an internal passport, so that they were held at Constantinople and were prevented from joining their posts in the interior of Turkey, their colleges, schools, hospitals, and other American institutions (there are some 450 of them), which are now established in Turkey. I also had been home on leave, and when I returned I found these 10 or 12 men there. I immediately took up the matter with the council of ministers and with the Sultan, and when I ran the thing down the answer was this: That they did not want the American instructors and missionaries to return to their posts and that they did not propose to give them the permission or passports which would insure them protection en route to their posts. I asked for an audience with the Sultan and demanded that they be no longer restrained from joining their various posts in accordance with the right that they had as American citizens. The answer that was given to me was this: "Why, Russia assumes the right to discriminate between American citizens and to say which of them and what classes of them it will permit to enter Russia."

I have reason to believe that the Turkish minister of foreign affairs consulted with the Russian ambassador at Constantinople in order to strengthen him in the position that the Turkish Government was taking. The fact is also that Russia was not very friendly to our instructors, college professors, and missionaries in Turkey, because she saw that those men were enlightening Turkey, that they were spreading civilization, and, as Russia was looking upon Turkey in the near future as being a prey that would come into its net of aggrandizement, she saw that if Turkey was awakened to her rights and to a higher sense of her liberties, that the time when Turkey would become an easy prey to Russia would be postponed, and so the Turkish Government took the stand that she had a right to make the

same discriminations in the admission of American citizens to Turkey that Russia had exercised.

I desired to make it very emphatic that I was not the representative of the United States in Russia, but I was the representative of the United States in Turkey, and as long as I was there every man bearing an American passport, whether he was Congregationalist or Presbyterian or whatever his creed, should have the full rights accorded to him as an American citizen. [Applause.]

And I told the Sultan, "If you will not give our citizens an internal passport to travel in your Empire, I will give it to them, and if any harm befalls them I give you notice now that no effort on my part will be spared to induce my Government to go to the fullest extreme to protect her citizens in this Empire." [Applause.]

So, gentlemen of the committee, if we allow a rift to be made between the rights of American citizens in any one country it is laying down the precedent for every other country to make such rifts as may suit their convenience or their prejudices. I think that this is a further illustration of the fact that this treaty of 1832 which we have with Russia is of as much importance to the Protestant and to the Catholic as it is to the Jew. It is purely and absolutely an American question, and the sooner our Government takes the stand that this condition shall not continue a day longer, the sooner will the rights of America citizens be vindicated, not only in the United States, but throughout the world. [Applause.]

Mr. LEVY. I would like to ask one question, and that is, after the position you took, what action did the Sultan take?

Mr. LEGARE. Did Turkey give the passports?

Mr. STRAUS. I will be glad to answer you. After I had this very quiet conversation with the Sultan and his ministers, I returned to the legation, as it was then, and I called the gentlemen before me. One of them is to-day the president of Robert College, at Constantinople, a very great scholar and a remarkable educator. I told them precisely what the situation was. I said, "Gentlemen, it is up to you. If you wish to return to your various posts in the interior of Turkey, I will stand by you, and I will see you protected." They took the steamer on the Black Sea to rejoin their posts, and I notified the consul and ministers, popularly known as the Sublime Porte, that I had directed these men—Americans—to go to their several posts in accordance with their rights as American citizens and in pursuance of our treaties with the Turkish Empire.

I went to bed that night somewhat disturbed in mind, very naturally, for fear that something might happen to these men, and because I had assumed the responsibility. At 1 o'clock in the morning a messenger came to me from the Sublime Porte, bringing a very polite note from the minister of foreign affairs, saying, "I beg to advise you that at a council of ministers which has just been concluded that orders have been given to the various officials of the Provinces through which they travel that every possible protection shall be accorded to the American missionaries who you notified us had left for their posts with your authority this afternoon." [Applause.]

Another queer instance arose in connection with it. It seems there were two or three British subjects among them who were connected with these various educational institutions, and when I gave the

authority to our citizens to return to their posts they joined them—the two or three English subjects. The British ambassador came hurriedly to my legation and said, "My dear colleague, what have you done?" I said, "To what do you refer?" He said, "Why, these missionaries and instructors have gone without obtaining the authority of the Government." I said, "Yes; that is true; I have given them my authority to go. How does that concern you, my dear colleague?" "Well," he said, "there are two or three British subjects that have gone with them." I said, "You need not trouble yourself about them; they are in the very best company." [Laughter and applause.]

So when I received this notice from the Sublime Porte I thought I would not let him have too easy a night of it, and I waited until the following morning before I informed him that the British missionaries were absolutely safe in the hands of the American missionaries.

Mr. LEGARE. Was your passport ever held up while you were in Russia because you were a Jew?

Mr. STRAUS. I was never held up, and never could have been held up, because I would not have given them the opportunity of holding up my passport.

Mr. LEGARE. You never had any difficulty with Russia about your passport?

Mr. STRAUS. Did I ever have any difficulty?

Mr. LEGARE. Yes; I mean while you were minister to Turkey.

Mr. STRAUS. Never. But I will tell you what I think you allude to. In 1910, during frequent conversations with my Russian colleague at Constantinople, as we had many matters at that time which were of mutual interest, and among others the question of railway concessions, in the course of those conversations he was very anxious that his Government should be able to form some understanding or arrangement with the American company with regard to certain rights which Russia claimed in connection with transportation. He presented the matter to me, which I received very sympathetically, and in the course of the pourparlers or conversations he asked me whether I had ever been in Russia, and whether I knew Russia. I said, "Yes," that I knew Russia, that I had never been there, but that we in America had a great many messengers from Russia and we naturally knew a great deal about it. He informed me that I had a great many friends there—which I think is true. Among others were my colleagues on The Hague tribunal, and many diplomats whom I have met in my diplomatic career. He said that he hoped I would go there because the Government would deem it a great privilege to be able to confer with me regarding these railways in Turkey, especially those protected lines of railway that the American companies were desiring to get concessions from, on the part of Turkey. Well, I told him that I had intended if time permitted, sometime, on my going or returning from Turkey, to go via Russia, and he said he hoped I would go and he would be glad to give me letters to some of the leading men in Russia. He said, "Of course, Mr. Ambassador, you do not need any letters, but there are certain men whom you might meet officially and whom I would like very much to have the opportunity of meeting you."

Three or four weeks passed by and the representative from the Russian Embassy came to me and said his ambassador had left on leave, and he hoped I would go through St. Petersburg. I told him at the time, "You have cholera in Russia; I understand there are about 100,000 cases, and I do not go for pleasure tours where there is an epidemic of cholera."

That is all I know about this incident that has been referred to in connection with my passport being refused on the part of Russia. I certainly never would have presented a passport in order to go to Russia. I have too high a regard for the dignity and importance of a diplomatic representative of our Government to ask for permission to enter any country on the face of the earth.

Mr. LEGARE. That was a mere rumor, then?

Mr. STRAUS. That was a mere rumor. But the newspapers had the statement that permission had been granted to the American minister, Oscar Straus, to come into Russia. It may be assumed that when I indicated the possibility or probability of my passing through Russia my Russian colleague notified his Government and his Government may have issued or notified its own officials of my possible coming, and as I am pretty generally known to be a Jew, I imagine the two things were put together. But personally I know no more than I have stated to you.

Mr. SHARP. Have you any reason or evidence to believe that there are American private interests opposing the abrogation of this treaty?

Mr. STRAUS. I have no knowledge upon that subject.

Mr. SHARP. There has been a great deal in the papers about certain pressure being brought to bear on account of certain financial interests in Russia, and I did not know but what you had investigated that.

Mr. STRAUS. I have no personal knowledge upon that subject. I have seen those reports, and some of our large trusts, which have interests in Russia, fear that the abrogation of this treaty might interfere with the prospects of their receiving concessions from the Russian Government; but I have no direct knowledge upon the subject.

The CHAIRMAN. After careful consideration, you are in favor of the abrogation of the treaty as the best solution of the problem, are you not?

Mr. STRAUS. I regard it as the only solution of the problem. [Applause.] I regard it as the only method of making any possible negotiations that may be in the air between the State Department and the Government of Russia, as the only practical way, if there is anything in those negotiations, anything more than there has appeared in the last 40 years, of bringing them to a conclusion. For, as a matter of fact, if we give the notice they have 12 months' time to come to an understanding with us. If we do not take this stand, it will be a further encouragement to the Government of Russia in the belief that we in this country put the dollar before the man. As has already been stated, our entire trade with Russia is 1 per cent of our total foreign trade, but I believe if it were 99 per cent of our total foreign trade that the Members of Congress, of both Houses of Congress, understanding this subject, as they are now beginning to understand it, would not for the whole trade of the United States

stand in the way of vindicating the rights of American citizens abroad. [Applause.]

The CHAIRMAN. The next speaker will be Mr. Abram I. Elkus, regent of the New York University and a member of the Board of Delegates on Civil Rights of the Union of American Hebrew Congregations.

STATEMENT OF ABRAM I. ELKUS, ESQ.

Mr. ELKUS. Mr. Chairman and gentlemen of the committee, the Board of Delegates on Civil Rights of the Union of American Hebrew Congregations and the Independent Order of B'nai B'rith have caused to be prepared a treatise on the international law covering this subject, and asked me to present it to this honorable committee and to say one word in their behalf. I appreciate the courtesy of Mr. Marshall in letting me say a word now. It appears, Mr. Chairman and gentlemen, that the discrimination now practiced by Russia toward the citizens of the United States has been practiced by other countries many years ago, not only against the citizens of the United States but citizens of France and England. Switzerland did the same thing as to some of its Cantons, and also the Empire of Turkey. And in each instance the governments whose citizens were excluded forced those countries—in one case by the withdrawal of the treaty absolutely—and in the other by negotiation to withdraw the obnoxious provisions, and as long ago as 1864 the Empire of France promulgated this doctrine:

> No distinction may be recognized in the enjoyment of civil and political rights between a French Jew and a French Catholic or Protestant. This equality of rights must also follow a citizen beyond the frontier; and the principles of our Constitution do not authorize the Government to protect its subjects in a different manner according to which faith he professes.

The Government of France compelled that declaration by forcing the withdrawal of the treaty which England claimed authorized its obnoxious performances, and a new treaty was made, which omitted those restrictions.

And I say, Mr. Chairman and gentlemen, that if France in 1864, under an Empire, could force the realization of those principles and doctrines which it laid down, is not the United States large enough and broad enough and strong enough to force them now upon the Empire of Russia? [Applause.]

Mr. MARSHALL. I think Judge Sanders would like to make a few remarks.

The CHAIRMAN. Then the next speaker will be Judge Sanders, of New York.

STATEMENT OF JUDGE LEON SANDERS, OF NEW YORK CITY.

Mr. SANDERS. Mr. Chairman and gentlemen of the committee, I have no desire to trespass upon the time of this committee. I believe the subject under consideration has been thoroughly discussed by men more conversant with the subject than I am; but I feel that I owe it to those I represent to say to you that we are in thorough accord with the objects and premises of this resolution, and we hope that this committee will report it out unanimously and that the House of Representatives and the Senate will concur therein.

I represent here, as the grand master of the order, the Independent Order of B'rith Abraham, an organization that has 150,000 members; and, as president, the National Jewish Fraternal Congress, having a membership of almost one-half a million, including all the Jewish orders doing fraternal work in the United States. I represent them and I speak for them in saying that all our lodges, of all our organizations, are unanimously in favor of these resolutions. Not simply because they affect the rights of our people as Jews, but because we feel that this is an American question and that it affects the rights of every American citizen.

We ask that this Congress go on record that these United States will not sell the birthright of its citizens for a mess of Russian pottage, if the only opposition to it be based on the fact that the commerce of some of the people of the United States may be affected thereby.

We strongly feel that the committee and that Congress should vindicate the honor of American citizenship and the only way to do that is by taking this action. It may be drastic, but it is the only thing to do. For 40 years every avenue of diplomacy has been traveled by our representatives. For 40 years they have tried in every possible way to find a solution. We have now come to the end. Either we are true to ourselves or not. Either we are going to stand up and fight for the principles we have advocated, upon which this action will be based, or we are false to every principle which we have been professing and preaching as long as the foundation of this Government.

The CHAIRMAN. As I understand, you and the people you represent favor the adoption of the resolution to abrogate the treaty?

Mr. SANDERS. We do, and every lodge and order has adopted resolutions to that effect, and our Members of Congress has received copies to that effect.

Mr. MARSHALL. How many lodges are there?

Mr. SANDERS. The Independent Order of B'rith Abraham has 632 lodges, and the National Jewish Fraternal Congress has a total membership of close on to half a million, probably representing nine-tenths of the entire Jewish citizens of the United States.

The CHAIRMAN. The next speaker will be Mr. Samuel Dorf.

STATEMENT OF MR. SAMUEL DORF, OF NEW YORK CITY, PRESIDENT OF THE ORDER OF B'RITH ABRAHAM.

Mr. DORF. Mr. Chairman and gentlemen, the legal aspect of the case has been so fully set forth that I as a layman would not dare to try to suggest anything in addition. I speak as a layman, as president of the Order B'rith Abraham. We have 74,000 members, scattered over the United States. The order was instituted in 1859 for a special purpose. Our mission in this country was to get hold, as soon as possible, of every new member of our faith and bring him into our lodges for the purpose of Americanizing him and acquainting him with the institutions of the country, the language of the country, and the customs of the country.

The CHAIRMAN. And make them good citizens?

Mr. DORF. That is our object, to make them good citizens. I want to say to you that there are thousands of Jews to-day who are mem-

bers of and wear the insignia of Christian orders, and they will tell you that the primary school for them was our order; that they first learned the fraternal life with us before they could intermingle with the other orders.

My executive board has instructed me to appear here to-day and beg of this committee to do something which will relieve us of the disabilities under which we are suffering.

The CHAIRMAN. The people you represent favor the adoption of this resolution providing for the abrogation of the treaty between the United States and Russia?

Mr. DORF. Yes, sir. And further, we would like to stop talking about it so much—we have been talking about it for many years—and do something. The great trouble, I think, has been that we have talked too much and have done too little. I do not doubt for one minute that the President of the United States and the Secretary of State of this administration and the Secretaries of State of past administrations for 40 years have tried their very best to overcome this matter; but my objection is that the President fails to tell Congress that he has not succeeded. If he would only tell Congress, "I have tried and have had no success," Congress would know how to act. I as a layman look at this whole thing as a joke. The Russian diplomat has simply been playing the Yankee diplomat in such a way that he simply stays over there and laughs.

The CHAIRMAN. If this resolution is adopted he will not think it is such a joke, will he?

Mr. DORF. No; but the only way to make them think otherwise is to act.

A question was asked by one of the members of the committee, when Mr. Marshall was speaking, as to what would be the effect on the Russian Jews in Russia, what would be the effect of the adoption of the resolution on those people, and I felt very kindly toward the gentleman that asked that question and showed an interest in the matter. My opinion is that there would be less bloodshed after this is adopted and for this reason: The Russian Government tells the Russian Jew, "You have no right to complain in this country, because your brethren who live in free America are no better off than you are; they are under a political disability"; but just as soon as the Russian Government will find out that the American Congress will fight for the Jewish race and place them equally before the law, that will make the Russian Government at least begin to respect their own Jews. [Applause.]

Mr. LEGARE. That is the kind of answer I was looking for when I put the question.

Mr. DORF. I am not a Russian and I would not go to Russia. I would not go there if you would give me a viséed passport. I do not want to see Russia at all. I am satisfied here.

So we are not fighting here for the Jews of Russia. We will take care of that later. The first thing we want is for the Government to keep faith with us. When I became a citizen of the United States, at least when I made an application to become a citizen, I first had to suffer two and a half years. The suffering was really welcome to me, because I had a star of hope to look up to. I knew that soon I would make my first application to become a citizen of the United States. When I made the application I was told before I could go

any further I would have to swear off all allegiance to the country where I was born. I did that, and then I was on probation for two and a half years more before I could get my citizen papers. But then, when the happy day came when I swore allegiance to this country, all at once I found out, when I asked for a passport, that while I got a large, beautifully engraved paper, with the great seal of the United States on it, yet inside is to be found this little letter, that little note which makes a man think he has been fooled. I thought I had the right to go anywhere in the world I please with this passport, but the Secretary of State of the United States notifies me "If you are a Jew, in spite of the fact that we have a treaty with Russia, do not go there because we can not give you any protection."

Mr. SHARP. It is like an indorsement without recourse?

Mr. DORF. Yes. All the people I represent appeal to this committee, and through it to the Congress of the United States, to place us where you promised to place us, on an equality with all other citizens of the Nation, equal in the eyes of the law. You say this is a Jewish question. If this was a Catholic or Protestant question, I would be here just the same pleading for them.

The CHAIRMAN. We say it is an American question.

Mr. DORF. Well, I would plead for them just as well. We beg of you to relieve us of this humiliation. It is a humiliating position we are placed in. The only way to relieve us is to pass this resolution, and the rest will take care of itself.

Mr. MARSHALL. I would like to have Rev. Dr. Foster say a few words.

STATEMENT OF RABBI SOLOMON FOSTER, OF NEWARK, N. J.

Mr. FOSTER. Mr. Chairman and gentlemen of the committee, I am corresponding secretary of the Central Conference of American Rabbi, an organization made up of 210 of the rabbis of this country throughout the length and breadth of our land. From time to time at our national ventuons, as well as in our various homes, the resolutions introduced by yourself have been unanimously indorsed. We have worked side by side with the citizens of other faiths in our various cities to educate the people at large in the great moral issue involved in this passport question. I might tell you, Mr. Chairman and gentlemen, that the hearty cooperation we have met with in our various interviews on the part of the people of all faiths gives us every reason to believe that it is not a matter which is of vital interest alone to the Jewish people, but of vital interest to every citizen of intelligence, and that the citizens generally will heartily indorse this action.

In fact, they have declared themselves so in mass meetings throughout the country. Letters have been written and resolutions have been passed by our leading citizens of all faiths. They have worked side by side in order that we might enrich our citizenship. I speak also in behalf of the Alumni Association of the Hebrew Union College in Cincinnati, of which association I happen to be the president. The same action has been taken, to the effect that this evil shall be corrected.

I would like to add one word to the discussion. I think this will react as a benefit to our own people and the citizens of this land. I think when we get through this agitation we are going to have a clearer interpretation of our citizenship. It seems to me we need some danger to point out to us the blessings of our citizenship, and when we have passed through it I think it is going to count for good and the meaning of American citizenship will be enriched and beautified, and for that reason I hope we will act quickly and act in the proper way.

The CHAIRMAN. Doctor, you and the people you represent favor the adoption of this resolution, providing for the abrogation of the treaty, do you?

Mr. FOSTER. Yes; the resolution was passed unanimously in St. Paul last July, during the time of the extra session of Congress, and Congress and the President were so informed.

The CHAIRMAN. Gentlemen, we have with us to-day Mr. Bernard Nolan, secretary of the national citizens' committee, who desires to present to the committee a large number of letters from distinguished people throughout the country to be filed with the committee, the letters to be used as the committee may determine.

STATEMENT OF MR. BERNARD NOLAN, SECRETARY OF THE NATIONAL CITIZENS' COMMITTEE.

Mr. NOLAN. Mr. Chairman and gentlemen, I have here some 900 letters; 320 of them are from Congressmen, 28 from United States Senators, 38 from governors, and 22 from mayors of cities, and the balance of them are from business men and citizens of the country. This committee has sent out some 50,000 circular letters asking for the indorsement of the various religious denominations throughout the United States of these resolutions, and the answer has been very, very favorable. This committee last Wednesday unanimously adopted, without a question, a resolution in favor of the abrogation of the treaty, expressing the wish of the national citizens' committee of the United States that it shall be adopted without any further delay.

This question is an American question pure and simple, and the words used in the literature sent out by Mr. McAdoo, words which appear in all our literature, on the letter heads, and so on, typify American ideals. It appeals to me in slecting the different things that should go with a movement of this kind. This reads:

> The great seal of the United States of America attached to a passport ought to be honored by every friendly civilized government, regardless of the creed or racial antecedents of the holder. Discrimination of any class of citizens is wrong in morals and principle.

That was Mr. McAdoo's contribution to the cause. Here is another from a great American:

> The American citizen should be like the citizen of ancient Rome. Wherever he goes the power of the greatest country in the world should go with him and stand behind him. Our country is the greatest country in the world, and it is the character and quality, the fidelity and devotion of our citizens that have made our country great; that have made its name honored throughout the world.
>
> What our citizens have done for their country, our country should do for its citizens. If our country is the most respected, the most considered, the most honored of all the countries of the world, then our citizens, wherever they go with

the passport of the United States in their hands, should be and shall be the most respected, the most considered, and the most honored of all citizens of the world.

In the protection of its citizens, in the maintenance of its own self-respect, in the defense of its own honor, let the United States assert its dignity and, if necessary, employ its power.

That was by William R. Hearst.

The CHAIRMAN. Mr. Marshall, you may resume your argument.

STATEMENT OF LOUIS MARSHALL, ESQ.—Continued.

Mr. MARSHALL. I will try to be very brief in the further remarks I will have to make, and I will be particularly glad to answer any question.

I want to meet the argument of those who are fearful that something may happen if this treaty is abrogated. First of all, one of the members of the committee asked me as to whether I had any cases affecting Methodists or Presbyterians or Baptists——

Mr. KENDALL. Any Protestant sect.

Mr. MARSHALL. I have a letter from Bishop Hoban, bishop of Scranton, who is the Catholic bishop up there. At the time we appeared before Congress in the early part of the year we distributed literature on this subject for the purpose of educating the people into a realizing sense of the importance of this proposition, which we have now in concrete form before the committee, and we received in reply the following letter:

CHANCELLOR'S OFFICE,
315 Wyoming Avenue, Scranton, Pa.

Mr. MAYER SULZBERGER,
President American Jewish Committee, New York.

DEAR SIR: Replying to your communication of the 8th instant, the right reverend bishop wishes me to say that he is in hearty accord with the movement started by your committee. It was only a year and a half ago that he himself was prohibited from entering Russia for only a two days' visit. As you no doubt know, Catholic priests in general are prohibited from entering Russia. He wishes your movement every success.

Very truly, yours, A. J. BRENNAN, *Secretary.*

On the 16th of February, 1911, we had a hearing before this committee on the then pending resolutions. Our attention was called to resolutions which had been introduced by Congressman Sheppard, of Texas, the burden of which was that there had been an exclusion of Protestant missionaries from Russia, and expressing the protest of Congress. I think you will find that resolution upon the files of this committee.

The CHAIRMAN. They were Baptist missionaries.

Mr. MARSHALL. I wish also to call attention to the fact that this question is one which aroused interest not only among the Jewish organizations, which is very natural, but among other religious bodies.

At a meeting held in the city of New York, about a month ago, by the Federation of Churches, an organization which is composed of the principal churches located in the city of New York and its immediate vicinity, and representing more than 700 different organizations, resolutions were adopted asking for the immediate abrogation of the treaty. I shall present to this honorable committee

copies of those resolutions. I have not a copy here, but I will see to it that they are forwarded.

At a meeting held recently by the National German-American Alliance of the United States of America, an organization incorporated by act of Congress, and representing the citizens of America of German birth or descent, and consisting largely of Protestants and Catholic Germans, although to a slight extent Jewish Germans, resolutions were adopted, and the terms of those resolutions were as follows:

Resolved, That the nonrecognition of the American passport by the Russian Government on account of the religion of the holder thereof is violative of the treaty of 1832, and therefore Congress be petitioned to abrogate that treaty.

I could add a large number of similar resolutions by other national bodies and will make an effort to forward them at an early date.

I also desire to say that I have been specially requested by the Independent Order of B'nai B'rith, an organization which has a distinguished membership of Jews throughout the country, to represent them here on this occasion, and the president, Mr. Adolph Kraus, of Chicago, has authorized me to represent them, although I am not a member of that or any other fraternal order, and to say that this organization is in hearty accord with the resolutions under consideration, especially mentioning the resolutions introduced by Mr. Sulzer.

Hon. Simon Wolf, a well-known resident of Washington, who has for many years appeared before various committees of Congress on matters pertaining to good citizenship, is unfortunately unable to attend on account of illness. He is the chairman of the Board of Delegates on Civil Rights of the American Hebrew Congregation. He likewise requested me to speak in behalf of that organization and to say that they indorse these resolutions.

Mr. KENDALL. Before you pass to another subject, you have given two concrete examples. Have you some in addition?

Mr. MARSHALL. I should have mentioned the case of Oscar Hammerstein, a well-known citizen of New York, of international reputation, who created the great opera house in New York and the opera house in Philadelphia as well, and also the new one in London. He desired to visit Russia in order to secure Russian singers and dancers, and he was denied a visa of his passport, and in this way a serious artistic loss to Russia and to the United States was brought about.

Mr. DIFENDERFER. Mr. Marshall, as a matter of fact, does not the Russian Government restrain its subjects from leaving the country?

Mr. MARSHALL. Well, if it is meant by that——

Mr. DIFENDERFER. I have particular reference now to a prominent singer in Russia, whom they will not permit to leave their country.

Mr. MARSHALL. That is possibly due to the fact that he is under contractual relations.

Mr. DIFENDERFER. No; no contractual relations enter into the case. You have spoken of religious organizations petitioning. Have you any petitions from nonreligious organizations?

Mr. MARSHALL. The legislatures of 12 States are nonreligious.

Mr. DIFENDERFER. That is what I wanted to know, because I do not belong to any religious organization.

Mr. MARSHALL. And the National German Alliance is nonreligious. The mass meeting in the city of New York was nonreligious. There is no question as to what the attitude of the Democratic organization

of the city of New York is upon that subject. It is stated that that is nonreligious!

Dr. ADLER. Prof. Hyvernat, professor of oriental languages at the Catholic University, several years ago went with a French priest to study the inscriptions at Lake Van. Prof. Hyvernat is one of the greatest living authorities on Armenian inscriptions. When it was found out that he was a Catholic priest he was expelled from Russia in 24 hours.

Mr. KENDALL. Was he a citizen of this country?

Dr. ADLER. I have no knowledge as to that. He has been here at the Catholic University for probably 12 years.

Mr. TOWNSEND. I sympathize with your contention that the abrogation of this treaty will establish the citizenship equality of Jews with other citizens here; but I would like to get from you what you think will be the status of American Jews in Russia after that?

Mr. MARSHALL. It will be one of two things. If Russia after the abrogation of this treaty declines to make a new treaty, she probably will not permit American Jews to enter Russia; but the probability is that Russia will not permit herself to be isolated by such a Government as the United States by not entering into treaty relations with them. The probability is that she will enter into a modern treaty, not an antiquated one like this, which ought to be abrogated anyway, without regard to this particular matter we are discussing.

Mr. TOWNSEND. I think that you, this morning, and Mr. Straus, this afternoon, spoke of negotiations pending. But the article of the treaty that is under discussion is satisfactory in terms now, as I understand it.

Mr. MARSHALL. Yes.

Mr. TOWNSEND. Just what would we negotiate with Russia that would be more satisfactory than the present treaty, so far as the part of it particularly under consideration is concerned?

Mr. MARSHALL. I suppose the idea would be either to revise the treaty by using language that even Russia can not evade——

Mr. TOWNSEND. That would grant these rights?

Mr. MARSHALL. Precisely.

Mr. KENDALL. Is it not your notion that if we abrogate this treaty, leaving Russia isloated, that she could not remain in that condition; and if we should do that would not England and Germany, and perhaps France, follow the example?

Mr. MARSHALL. Yes, undoubtedly. The German press is now replete with articles on this subject which indicate that Germany is only awaiting the example of this Congress. If America, which is not tied to Russia by these secret treaties and other entangling alliances, will take the lead, there is no doubt that Germany and other Governments will follow, because they can not afford to have a different situation exist with regard to their citizens from that which would be created by the abrogation of this treaty and the adoption of a new treaty with Russia. Therefore we feel that this is the entering wedge. England has all sorts of treaty relations with Russia that nobody knows anything about. Once in a while they come to the surface and we hear of spheres of influence, for instance, in Persia we hear of England having a sphere of influence in Southern Persia and of Russia having a sphere of influence in Northern Persia. Those

things, of course, affect the English Government, which has no such constitution as we have. England is constituted on an entirely different theory from the American Government. The same thing is true of France. France, although it has always been outspoken in favor of liberty, is unfortunately for her the principal creditor of Russia, and France, therefore, can not afford to take the lead in a movement of this sort.

It did make an effort some time ago to protest against the violation of a treaty entered into between Rusisia and herself which in expressed terms allowed French Jewish commercial travellers to enter Russia and which treaty provisions were violated. In a very elaborate argument on that subject, which I will present to you as a part of the evidence which we have to offer, France indicated the way that Russia was treating even her great friend, France, the country which has been furnishing Russia with the sinews of war and backing other operations for many years. The pamphlet which I have is the pamphlet entitled "The Passport Question," which I ask to have made a part of the record, because it is replete with facts which bear upon this proposition.

The CHAIRMAN. There being no objection, that will be made a part of the record. (See Appendix II, p. 239 *et seq.*)

Mr. MARSHALL. Now, one of the members of the committee passed me a note saying that Russia recognized the treaty for nearly 40 years, up to 1867 or 1868, and asked what was the immediate cause of the changed attitude with reference to the provisions of the treaty. The answer to that is largely found in the very admirable speech of Judge Sulzberger. I could not assume or undertake to repeat the remarkable historical and philosophical disquisition he entered into as indicating the psychological influences of the Russian mind which brought about that change. The fact is that in 1784 Queen Catherine issued a ukase in which she invited Jews to come into Russia from neighboring countries, and there was a large influx of Jews from Germany and other countries into Russia, and they were expressly given the right to reside in the several cities of Russia and to observe their own religious faith according to their own conscience, and that condition of things continued in Russia for several years. Such was the state of affairs in 1832, practically, when this treaty was entered into. It was not until the time which has been referred to, about 1867 or 1868, that Russia's entire attitude with regard to the European world was changed. There arose the idea of the pan-Russian Church, the pan-Russian Government.

There was the idea that it was only the Russian races which were to be predominant. So Poles and Finns were put under the harrow, and so the Pale of Settlement in Russia, if not at that time created, was certainly made more uninhabitable, and the rights of Jews outside of the Pale were limited. That, I said, is purely and solely the result of a new political theory, a chauvinistic theory, which gained hold in Russia and from which it has not yet recovered.

I call the attention of the committee especially on that subject, looking at it from the historical standpoint, to the most admirable résumé which is to be found in the dispatch of Secretary Blaine in 1881 on this proposition.

Mr. FLOOD. I have seen it stated in the press that this legislation against Jews began in Russia in 1824?

Mr. MARSHALL. There was more or less of it then——

Mr. FLOOD. And I understand from you that it was not until about 1867?

Mr. MARSHALL. The great mass of legislation against Jews was not until about that time. The so-called May laws of Ignative were passed in 1882. It was a sort of progressive legislation. There were of course sporadic cases of legislation against the Jews during the first quarter of the nineteenth century.

Mr. FLOOD. Against the permission of foreign Jews going into Russia, against the passport being issued to foreign Jews?

Mr. MARSHALL. No; that question did not come up. There was no such legislation; there was no such question which arose with regard to the passport until long afterwards. The first case that ever came under consideration with regard to the passport arose in 1867 or 1868.

Mr. FLOOD. Was there any legislation as early as 1824 that prohibited Jews from other countries from entering Russia?

Mr. MARSHALL. There was not.

Mr. FLOOD. What was the earliest legislation on that subject?

Mr. MARSHALL. Whether it was legislation or an edict——

Mr. FLOOD. I mean an edict, yes.

Mr. MARSHALL. I should say it was about that time.

Mr. FLOOD. About what time?

Mr. TOWNSEND. 1867 or 1868, he said.

Mr. MARSHALL. Let me read from the dispatch of Secretary Blaine on this subject, July 29, 1881. This is to be found in the correspondence which I will leave here:

> From this time [1817] down to 1860, I can find no trace of the enforcement, especially against American citizens, of the restrictions against Jewish travel and residence which are stated to have existed when our treaty with Russia was signed. It is a significant circumstance that the acknowledged authorities on international law, writing during this period upon the legislation of all Europe as effecting the persons and rights of aliens, make no reference to such disabilities.

There is a great deal more of that matter which is to be found in the literature I have put in evidence.

Now, several points have been made for the purpose of a possible excuse for the Russian Government, which I will briefly consider.

The first section of the treaty reads as follows:

> The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories in order to attend to their affairs, and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce.

The argument has been suggested that with the condition that they shall submit to the laws and ordinances prevailing in Russia or in the United States, as the case may be, Russia might take away the rights of a Jew, might say that, though a Jew was a citizen of the United States and entitled to the protection of this treaty, they could exclude Jews. The argument would be that if they could do it with Jews they could do it with others, and finally it might be that simply one class of favored individuals would be left. That is not to be thought of for a moment. This treaty must be considered as a treaty between two parties. It is a treaty that was intended to accomplish

something for the benefit of both parties. It is a treaty by which it was intended that the same rights should exist in favor of every United States citizen and every Russian citizen. It is unthinkable that the United States should enter into a treaty with Russia which had within its provisions an exception for or against any particular class of citizens.

Mr. COOPER. I observe that the language is "inhabitants" and not "citizens."

Mr. MARSHALL. Yes, because that is broader. It is even stronger.

Mr. COOPER. Yes, it is broader.

Mr. MARSHALL. They can not make a point on that.

Mr. COOPER. Except in this way. An inhabitant of this country might be a citizen of England and we could not complain. Or he might be a Russian over here, not acquiring citizenship here.

Mr. MARSHALL. We are interested only so far as citizens are concerned.

Mr. COOPER. I understand, but I do not know but they might make some question on that language.

Mr. MARSHALL. No, they have not done so. Let us put ourselves in the place of the parties who negotiated the treaty. Mr. Buchanan and Count Nesselrode negotiated the treaty. Now, if James Buchanan, who was subsequently President of the United States, had assumed to enter into an agreement whereby it was tacitly or expressly stated that the rights under that treaty should be taken away from Jews, or from Catholics, or from citizens of Mississippi, or Texas, or New Hampshire, or Pennsylvania, everybody would have risen in arms and said "We must look at this treaty as a treaty which is entered into by the two Governments for the benefit of all of their citizens, not for the benefit of a part of them." And if this treaty would be susceptible of such an interpretation as that, which is claimed for it, that would be the best reason in the world why you should now at this moment repeal it and abrogate it. But those words do not mean anything of the sort. They are the ordinary terms which are put into all laws, and would be read in there even if they were not actually there, that the persons who go into a foreign country for the purpose of travel and sojourn must observe the laws and ordinances that prevail there.

They are not superior to the general laws of the land. If they make a contract, contracts are governed by the laws of the country in which the contract is entered into, and if they commit murder, or theft, or burglary, or any other offense they are to be dealt with in accordance with the laws of the land in which the offense is committed. But that is an entirely different proposition from that which says, "We have entered into an agreement with you that you shall come into this country"——

The CHAIRMAN. That applies to all the world?

Mr. MARSHALL. That applies to all the world; yes. "We have entered into an agreement with you that you shall come into this country, but you can go so far, and no further. When you get to the borders that passport is of no value, and you have to conform to the law of Russia, that no Jew shall enter or no Catholic shall be here, or no person living west of the Mississippi River shall come in here." I think that is enough in regard to that proposition.

One of the newspapers which sometimes allows itself to publish news from the Russian standpoint and tries to arouse prejudices says, "If we ask for the abrogation of this treaty, this will precipitate the question of Chinese immigration in a somewhat formidable way. Russia has Chinese subjects in Asia, and any compact opening the way to them would at once introduce an alarming factor into the equation."

It is really touching that Russia should have such tender regard for the United States with respect to the Chinese question. I think we are able to handle that question ourselves. It is preposterous, when we come to consider it. There is no parallel between the questions of the Chinese in this country and the Jews who go to Russia. In the first place, the Jews who go to Russia do not go under this charter, do not claim the right to go there for the purpose of immigrating into Russia. They go there merely for the purpose of traveling or sojourning or for the purpose of attending to their business or their affairs.

Undoubtedly Russia would have the right to say that she would not allow Jews to immigrate into Russia, just as we have a right to say, under the Constitution, we shall allow any Jews to immigrate into the United States, that is, for the purpose of having a permanent residence here.

But with respect to the Chinese, let me call attention to the fact that whatever legislation there has been with regard to Chinese exclusion, has been with the express consent of the Chinese Government and is a result of an express provision in the treaties between China and the United States which gives to the United States the right to exclude the Chinese. If the treaty between the United States and Russia should contain a provision that Russia should be permitted to exclude Jews from Russia or any other class of American citizens from Russia, then, of course, we could not complain, because that would be with our consent.

I do not believe the day will ever come when the treaty-making power of the United States will give its consent to any such provision with regard to any part of our citizenship. But if we did, why the Government would have no right to complain, however much those who are legislated against might have a right to complain to their own Government, because this matter has been discussed by men of standing in the world, and I feel that we might as well clinch that nail at this particular point, so that that head will not appear above the surface of the plank again.

The Burlingame treaty, concluded on July 28, 1868, and proclaimed on February 5, 1870, did not contain the unqualified declaration to be found in Article I of the Russian treaty, which read as follows:

> There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective states shall mutually have liberty to enter the ports, places, and rivers of the territory of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce.

Article I of the Burlingame treaty, qualifies the rights accorded by the Emperor of China under concessions made by him to the

citizens or subjects of foreign powers. Article IV provides, that the citizens of the United States and China of every religious persuasion, and Chinese subjects in the United States, shall enjoy every liberty of conscience, and shall be exempt from all disability or persecution on account of their religious faith or worship in either country. Article V, while recognizing the inherent and inalienable right of man to change his home and allegiance, the high contracting parties "join reprobating any other than an entirely voluntary emigration for these purposes. They consequently agree to pass laws making it a penal offense for a citizen of the United States or Chinese subjects to take Chinese subjects either to the United States or to any foreign country, or for a Chinese subject or citizens of the United States to take citizens of the United States to China or to any other foreign country, without their free and voluntary consent, respectively." Article VI provides that "citizens of the United States visiting or residing in China shall enjoy the same privileges, immunities, or exemptions in respect to travel or residence as may be enjoyed by the citizens or subjects of the most favored nation. And, reciprocally, Chinese subjects visiting or residing in the United States, shall enjoy the same privileges, immunities, and exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nations. But nothing herein contained shall be held to confer naturalization upon citizens of the United States in China nor upon subjects of China in the United States.

Now, that treaty was made in 1868. In 1880 that treaty was amended by a compact which was proclaimed on the 5th of October, 1881, and that contained these words, showing that there was conferred on the United States rights and privileges which are not conferred upon Russia by the treaty of 1832:

ARTICLE 1. Whenever in the opinion of the Government of the United States, the coming of Chinese laborers to the United States, or their residence therein, affects or threatens to affect the interests of that country, or to endanger the good order of the said country or of any locality within the territory thereof, the Government of China agrees that the Government of the United States may regulate, limit, or suspend such coming or residence, but may not absolutely prohibit it. The limitation or suspension shall be reasonable and shall apply only to Chinese who go to the United States as laborers, other classes not being included in the limitations. Legislation taken in regard to Chinese laborers will be of such a character only as is necessary to enforce the regulation, limitation, or suspension of immigration, and immigrants shall not be subject to personal maltreatment or abuse.

ART. 2. Chinese subjects, whether proceeding to the United States as teachers, students, merchants, or from curiosity, together with their body and household servants, and Chinese laborers who are now in the United States shall be allowed to go and come of their own free will and accord, and shall be accorded all the rights, privileges, and immunities and exceptions which are accorded to the citizens and subjects of the most favored nations.

The convention regulating Chinese immigration, concluded March 17, 1894, and proclaimed December 18, 1894, is equally clear on this point. Articles III and IV read as follows:

ART. III. The provisions of this convention shall not affect the right at present enjoyed of Chinese subjects being officials, teachers, students, merchants, or travelers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein. To entitle such Chinese subjects as are above described to admission into the United States they may produce a certificate from their Government or the Government where they last resided, viséed by the diplomatic or consular representative of the United States in the country or port whence they depart.

It is also agreed that Chinese laborers shall continue to enjoy the privilege of transit across the territory of the United States in the course of their journey to and

from other countries, subject to such regulations by the Government of the United States as may be necessary to prevent said privileges of transit from being abused.

ART. IV. In pursuance of Article III of the immigration treaty between the United States and China, signed at Peking on the seventeenth day of November, 1880 (the fifteenth day of the tenth month of Kwangshu, sixth year), it is hereby understood and agreed that Chinese laborers or Chinese of any other class, either permanently or temporarily residing in the United States, shall have for the protection of their persons and property all rights that are given by the laws of the United States to citizens of the most-favored nations, except the right to become naturalized citizens. And the Government of the United States reaffirms its obligation, as stated in said Article III, to exert all its power to secure protection to the persons and property of all Chinese subjects in the United States.

Mr. COOPER. Does Russia grant citizenship to Chinamen?

Mr. MARSHALL. No; there are very few people who have citizenship. It is only a handful among their teeming millions.

Mr. COOPER. I was thinking of the use of the word inhabitants. If Chinamen should become inhabitants of Russia, how could we exclude them under their treaty? They might live there for the time being and become inhabitants.

Mr. MARSHALL. We have not any right to exclude anybody from Russia.

The CHAIRMAN. We are going to abrogate the treaty.

Mr. COOPER. But I was only speaking of how Russia would use us under this treaty.

The CHAIRMAN. That is a dangerous thing. That is another reason why it should be abrogated.

Mr. COOPER. There is every force in the world in the suggestion of mine. The word "citizen" should be used instead of the word "inhabitant."

Mr. MARSHALL. That is perfectly satisfactory to us.

Mr. COOPER. They could have anybody an "inhabitant" of Russia.

Mr. MARSHALL. As the law is, there is no exclusion of Mongolians.

Mr. COOPER. Under that treaty we could not exclude anybody who lived in Russia; anybody who was an inhabitant of Russia could come here, and hence the word "inhabitant" is an important word, I think.

Mr. MARSHALL. That is an additional reason, then, for adopting this resolution.

Mr. COOPER. That treaty was negotiated with Russia before the agitation of the Chinese question, but I think that word "inhabitant" should be "citizen."

Mr. MARSHALL. The question of Chinese immigration is one that has emanated from Russia, and I have endeavored to show it.

Mr. GOODWIN. I think that is covered by the Geary Act, not a treaty, but a statute, that prohibits the immigration of Mongolian laborers.

Mr. MARSHALL. But the Geary Act was passed because of the right to pass it which was conferred by these treaties.

Mr. KENDALL. The Geary Act is bottomed on the treaty.

Mr. MARSHALL. The Geary Act, as you will find, is founded on these treaties.

Mr. KENDALL. The Geary Act would have no validity at all if it had not been for the treaty that empowered the Government to enact legislation to carry it into effect, as I understand it.

Mr. GOODWIN. There was some question as to whether it referred to Mongolians. I accept your statement that it applies only to Chinamen.

Mr. MARSHALL. There is another point which has been discussed with regard to the financial aspect of this matter. I am really ashamed to discuss the financial aspect of a question of this sort, but still it is well enough for us to have the exact figures. It has been stated by Judge Sulzberger and also Mr. Straus that the amount of the Russian trade with the United States amounts to only 1 per cent of our entire foreign trade. Now, I have here the Statistical Abstract of the United States for 1910, published in Washington in the present year, from which it appears that the entire exports from the United States to Russia during that year were $17,730,414; and that the entire amount of imports during that same time was $17,377,212, making the exports exceed the imports by the amount of $452,599.

The amount of our trade in the last 20 years has not increased very largely. It has averaged probably during that entire period not to exceed $10,000,000 a year. But if we are going to deal with the subject of trade and industry let me call this important fact to your attention, to indicate that the Jewish citizens who have been discriminated against by Russia are doing something for the productivity of this country, which is not generally appreciated.

I had the honor of being called upon a year ago last summer as mediator to settle the cloakmakers' strike in New York City. Seventy thousand men were out on a strike and of these fully 60,000 were Jews. They had come to this country and were laboring at that useful vocation, manufacturing cloaks, suits, and skirts. That entire trade in which they were engaged, to the extent of 90 per cent of it at least, was in the hands of Jews. Many of them, a large proportion of them, were Jews who had immigrated into the United States from Russia. The total amount produced in that one single industry in the city of New York, by those Jewish citizens, was over $250,000,000 annually. Now, when you confront a proposition of that sort, a productive industry which produced $250,000,000 a year, against a total of $17,000,000 or thereabouts on each side of exports and imports with Russia, does not that whole question dwindle into insignificance? Is it not a matter of absolutely no mportance whatsoever?

Mr. DIFENDERFER. This is not a question of dollars and cents; it is not a question of religion; but it is a question of right, whether we shall maintain the dignity of the United States or not, not alone with Russia, but, I want to say, with countries nearer than Russia; for I have just come from the Isthmus of Panama, and I found that the American consuls there did not have any knowledge of the fact that two Americans had been incarcerated there for 9 and 14 months. And I am going to say this in connection with that subject: That in my judgment we have the greatest lot of namby-pamby representatives abroad of any important nation on earth, and I know, because I have been abroad and seen, and I would like to have asked Mr. Straus that question. It might have been a delicate question for him to have answered, but I believe he has been one of our best representatives abroad, one of the best men this country has ever sent abroad. He knows and many of us know that that is the condition abroad. Now, then, if we had representatives who would represent the country correctly, I doubt if the Russians would dare do as they are doing to-day.

The CHAIRMAN. When we take up the consular bill, Brother——

Mr. DIFENDERFER. I will be there.

Mr. MARSHALL. I am glad Mr. Straus is not here to answer your question.

Mr. DIFENDERFER. I am sure he would agree with me, because I know he is a very fair man.

Mr. MARSHALL. There is only one other point I would like to take up, and that is another question which has recently been raised, which arises under the 10th article of this treaty. That is the article which Judge Sulzberger referred to this morning, which relates to inheritances of citizens, subjects of each of the contracting parties, with respect to property located in each other's territory. That article, after covering quite a good deal of space, concludes as follows: "*But this article shall not derogate, in any manner, from the force of the laws already published, or which may hereafter be published, by His Majesty the Emperor of all the Russias: to prevent the emigration of his subjects.*"

Now, that clause, as you will see, by its express terms merely refers to this article:

ARTICLE X.

The citizens and subjects of each of the high contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other, by testament, donation, or otherwise, and their representatives, being citizens or subjects of the other party, shall succeed to their said personal goods, whether by testament or ab intestato, and may take possession thereof, either by themselves, or by others acting for them, and dispose of the same at will, paying to the profit of the respective Governments such dues only as the inhabitants of the country wherein the said goods are, shall be subject to pay in like cases. And in case of the absence of the representative such care shall be taken of the said goods as would be taken of the goods of a native of the same country, in like case, until the lawful owner may take measures for receiving them; and if a question should arise among several claimants as to which of them said goods belong the same shall be decided finally by the laws and judges of the land wherein the said goods are. And where, on the death of any person holding real estate, within the territories of one of the high contracting parties, such real estate would by the laws of the land descend on a citizen or subject of the other party, who by reason of alienage may be incapable of holding it, he shall be allowed the time fixed by the laws of the country, and in case the laws of the country actually in force may not have fixed any such time, he shall then be allowed a reasonable time to sell such real estate and to withdraw and export the proceeds without molestation and without paying to the profit of the respective governments any other dues than those to which the inhabitants of the country wherein said real estate is situated shall be subject to pay in like cases. But this article shall not derogate in any manner from the force of the laws already published, or which may hereafter be published by His Majesty the Emperior of all the Russias, to prevent the emigration of his subjects.

Mr. CLINE. That does not give rise to any conflict between that and the first section?

Mr. MARSHALL. No; I do not think it does in any way. At any rate, that question refers to the question of emigration. It does not relate to this general right of our citizens when they go to Russia.

This very subject, which has also been recently urged by some of the friends of Russia as being an indication that there is something in this treaty that would create some discussion with respect to those who have emigrated from Russia, was taken up by our State Department a number of years ago, and our position on the subject was very clearly defined.

In the first place, let me call attention to the fact that this treaty was a treaty which was negotiated by James Buchanan. Let

us see what James Buchanan's ideas were on the subject of expatriation and kindred topics. In 1845, when he was Secretary of State, he said:

The fact of your having become a citizen of the United States has the effect of entitling you to the same protection from this Government that a native citizen would receive. (Mr. Buchanan, Secretary of State, to Mr. Rosset, Nov. 25, 1845, 35 MS., Dom. Let., 330.)

The Government of the United States affords equal protection to all our citizens, whether naturalized or native, and this department makes no distinction between the one and the other in granting passports.

It is right to inform you, however, that difficulties have arisen in cases similar to yours. In more than one instance European Governments have attempted to punish our naturalized citizens, who had returned to their native country, for military offenses committed before their emigration. In every such case the Government has interposed, I believe, successfully, for their relief; but still they have in the meantime been subjected to much inconvenience. Under these circumstances I could not advise you to incur the risk of returning to Oldenburg, if the business which calls for your presence there can be transacted by any other person. (Mr. Buchanan, Secretary of State, to Mr. Huesman, Mar. 10, 1847, 36 MS., Dom. Let., 200.)

I am reading this from Moore's Digest of International Law, Volume III, page 566.

Again, Mr. Buchanan, in writing to Mr. Bancroft, minister to England, under date of December 18, 1848, says:

Our obligation to protect both these classes (naturalized and native American citizens) is in all respects equal. We can recognize no difference between the one and the other, nor can we permit this to be done by any foreign Government without protesting and remonstrating against it in the strongest terms. The subjects of other countries—who from choice have abandoned their native lands and, accepting the invitation which our laws present, have emigrated to the United States and become American citizens—are entitled to the very same rights and privileges as if they had been born in the country. To treat them in a different manner would be a violation of our plighted faith as well as of our solemn duty. (Mr. Buchanan, Secretary of State, to Mr. Bancroft, minister to England, Dec. 18, 1848, 47 Brit. and For. State Papers, 1241–1243. For the reply of Lord Palmerston, Aug. 16, 1849, to protests made by Mr. Bancroft in accordance with his instructions, see S. Ex. Doc. No. 38, 36th Cong., 1st sess., p. 167.)

Now, that is the language of the man who procured this treaty on behalf of the United States. Is it conceivable that he should have waived the American idea which he has thus forcibly expressed in favor of the right of expatriation? This very question, under section 10, came up with Russia. The question is thus expressed by Mr. Bayard, Secretary of State, to the minister to Russia, Mr. Lathrop, on the 18th of February, 1887. He says:

[Moores Digest, Vol. III, pp. 634-637.

That a citizen of the United States naturalized in Russia could under the treaty dispose of his property in the United States is beyond question, and the privileges thus conferred are equally given and equivalent, and should be so construed by each of the contracting parties. As citizens of the United States becoming Russian subjects are not to lose their property in the United States, so Russian subjects becoming citizens of the United States are not to lose their property in Russia.

It may be said that this stipulation is qualified by the concluding sentence of the article, providing that it is not to derogate "from the force of the laws already published, or which may hereafert be published, by His Majesty the Emperor of all the Russias, to prevent the emigration of his subjects."

It is not necessary to do more than call your attention to the rule that the assertion at the close of a treaty, of a general claim to which a prior grant is an exception, is an affirmation of such a grant. Of this the reassertion of their general claims to sovereignty by the German Emperors in their treaties with other sovereigns may be taken as an illustration; and another, to the same effect, may be found in our negotiations with Great Britain, in which she recognized Britons naturalized in the United

States to be American citizens, while maintaining the doctrine of perpetual allegiance. But such reservation does not conflict with the prior grant. When the status of citizenship is changed then the right of control ceases.

His Imperial Majesty may ("prevent") Russians from coming to the United States, but when they have come, and have acquired American citizenship, they are entitled to the privileges conferred by the article.

If there could be any doubt that this is the true meaning of the article in question, it would be removed by the fact that it is adopted from the fourteenth article of the treaty between the United States and Prussia, concluded May 1, 1828.

That treaty was accepted by Mr. Buchanan and Count Nesselrode, the negotiators, as a standard; and the Russian treaty is to be taken with the construction which the Prussian treaty rightfully bears. A copy of this treaty between the United States and Prussia is inclosed herewith.

It was never contended by Prussia, nor subsequently by Germany, that the validity of the naturalization of a Prussian or German in the United States was, under this article, to be conditioned upon his having emigrated with his sovereign's consent. If such an emigrant left his native land in violation of its laws requiring him to perform military service, this might be the subject of prosecution on his return. But emigration by itself, when followed by the acquisition of citizenship in the United States, was not to deprive such citizen of the unmolested enjoyment of the rights of American citizenship as given by international law as well as by the treaty in question. The object of the treaty was to secure to that large class of Prussians who had emigrated and had become citizens of the United States the right to dispose of their property in their native land, with a mutual and equivalent privilege to emigrants from the United States who should become Prussian subjects. The question whether the emigration was with the consent of the sovereign was not made, nor could such a condition have been accepted without destroying the newly acquired rights of citizenship.

The construction always given to the Prussian treaty by both the parties thereto has been that the rights it gives Prussians (or Germans) who become citizens of the United States are not dependent on their emigration being with their sovereign's consent. German sovereigns have not been disposed to look favorably on those of their former subjects who, having emigrated and been naturalized in the United States, revisit their native land to dispose of their property. But numerous as have been such visits, in no single case has there been an attempt to proceed against such visitors for breach of allegiance. Count Nesselrode and Mr. Buchanan must have been well aware of this; and it is impossible for us to do otherwise than hold that when they adopted in 1832 the very words of the treaty of 1828 they adopted them with the construction which they not only naturally bear, but which had been assigned to them in practice both by Germany and the United States.

We must under the treaty before us regard Lipszyc's United States citizenship as having been acquired with the assent of Russia, and therefore he is entitled under treaty, not merely in this country but in Russia, to the immunities attached to such citizenship. As a citizen of the United States he visits Russia, and although he may be liable when in Russia for offenses committed by him before his emigration and may be expelled from Russia on reasonable grounds he can not be tried for an emigration which when followed by naturalization in the United States Russia herself recognizes as conferring citizenship of the United States with the right of disposition in Russia of property there situated. And when you invite from His Imperial Majesty's Government the withdrawal of penal action based exclusively on that emigration you ask for no act which is at variance with the policy of that Government, but for one that is simply in accordance with its treaty stipulations. The withdrawal of such prosecution would be regarded as a signal proof of the continuance of the friendship which has so long existed between Russia and the United States.

Such a withdrawal is (in) no way inconsistent with the acknowledged right of Russia to prevent emigration; but on the other hand for the United States to acquiesce in the deprivation of the rights which belong to their naturalized citizens would be to surrender one of their cherished and fundamental institutions. To such surrender this department can not assent. And in view of the eminently friendly relations between the two Governments and of the facts that the question is not under the treaty one of principle with Russia, and that Lipszyc has been already subjected to a long imprisonment I am confident His Imperial Majesty's Government will not hesitate to act in accordance with the opinions and wishes of the United States. Releasing Lipszyc from imprisonment in no way derogates from the rights of Russia as reserved in the treaty, and I am sure His Imperial Majesty's Government will be unwilling by continuing that imprisonment to press on the United States so unwelcome a question as that of the inviolability of the treaty privileges of her citizens.

[Mr. Bayard, Secretary of State, to Mr. Lothrop, minister to Russia, Feb. 18, 1887, Foreign Relations, 1887, 948.]

Article 325, Russian Penal Code, chapter 7, reads as follows:

"Whoever, leaving his country, enters a foreign service without the permission of the Government, or takes the oath of allegiance to a foreign power, for this transgression of the duty of a loyal subject and of his oath is liable to the loss of all social rights and perpetual banishment from the territory of the Empire, or, in case of his unauthorized return to Russia, to deportation to and settlement in Siberia." (For. Rel., 1887, 945.)

ARTICLE X OF THE TREATY OF 1832 WITH RUSSIA.

The citizens and subjects of each of the high contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other, by testament, donation, or otherwise, and their representatives, being citizens or subjects of the other party, shall succeed to their personal goods, whether by testament or ab intestato, and may take possession thereof, either by themselves or by others acting for them and dispose of the same at will, paying to the profit of the respective Governments such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases. And in case of the absence of the representatives, such care shall be taken of the said goods as would be taken of the goods of a native of the same country in like case, until the lawful owner may take measures for receiving them. And if a question should arise among several claimants as to which of them said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. And where, on the death of any person holding real estate within the territories of one of the high contracting parties, such real estate would by the laws of the land descend on a citizen subject of the other party, who by reason of alienage may be incapable uf holding it, he shall be allowed the time fixed by the laws of the country; and in case the laws of the country actually in force may not have fixed any such time, he shall then be allowed a reasonable time to sell such real estate, and to withdraw and export the proceeds without molestation, and without paying to the profit of the respective Governments any other dues than those to which the inhabitants of the country wherein said real estate is situated shall be subject to pay in like cases. But this article shall not derogate in any manner from the force of the laws already published, or which may hereafter be published, by His Majesty the Emperor of all the Russias to prevent the emigration of his subjects.

ARTICLE XIV OF THE TREATY OF 1828 WITH PRUSSIA.

The citizens or subjects of each party shall have power to dispose of their personal goods within the jurisdiction of the other, by testament, donation, or otherwise; and their representatives, being citizens or subjects of the other party, shall succeed to their said personal goods, whether by testament or ab intestato, and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases. And in case of the absence of the representative, such care shall be taken of the said goods as would be taken of the goods of a native, in like case, until the lawful owner may take measures for receiving them. And if question should arise among several claimants to which of them said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. And where, on the death of any person holding real estate within the territories of the one party, such real estate would, by the laws of the land, descend on a citizen or subject of the other, were he not disqualified by alienage, such citizen or subject shall be allowed a reasonable time to sell the same and to withdraw the proceeds without molestation and exempt from all duties of detraction, on the part of the Government of the respective States. But this article shall not derogate in any manner from the force of the laws already published, or hereafter to be published, by His Majesty the King of Prussia, to prevent the emigration of his subjects.

So the construction which was given to that treaty by Prussia has always been in conformity with our interpretation of it, and therefore, that provision of the treaty having been borrowed from the treaty with Prussia, and having been previously entered into with the United States, the same interpretation is to be read into this treaty.

Therefore, our Government on this subject has spoken most emphatically, and this so-called new idea is really an old idea garbed in new form.

So far as the question of expatriation is concerned, that is also a very important one, and that is a matter that is to be taken into consideration in the abrogation of this treaty, because the time has come when the United States on this subject of the right of expatriation takes the same view with regard to Russia that it has taken toward every other civilized country in the world.

In 1870 England departed from her theory that there was no right of expatriation, as a result of this act of Congress which I read this morning, which is now embodied in sections 1999 to 2001 of the Revised Statutes, orignially appearing in the act of 1868, and when such a country as England is ready to lay down that policy and adopt the American policy, it is time for the United States, whose citizenship is built up from people who come from all countries on the globe, to insist more strongly than it has ever insisted upon this right of expatriation.

Mr. KENDALL. Your notion is that when we negotiate a new treaty with Russia we ought to write into that the principle that we have embodied in our statutes?

Mr. MARSHALL. Precisely. The whole point, then, is this: This is a matter that relates to the sacred rights of American citizenship. This country can not afford to create different classes of citizens. When it permits this treaty to stand and permits Russia to violate it, as it has for so many years, it is acquiescing in the Russian attitude and it is discriminating against American citizens, and in that respect violating its own Constitution. This treaty is antiquated, it is a relic of the past. I believe it is the oldest treaty in our whole collection of treaties. It is time that we should modernize this treaty, and the only way to do that is to consign it to the lumber room by abrogation, and clear the way for the adoption of a new, a modern, treaty. If Russia refuses to do that, we can stand the consequences. If Russia can stand isolated in its evil eminence as the only country in the world which has no treaty relations with the United States of America, we can afford to face the consequences. [Applause.]

The CHAIRMAN. Mr. Marshall, for myself and on behalf of the committee I want to thank you for coming here and for the eloquent and masterly way you have presented this proposition.

The committee will now hear from Representative Henry M. Goldfogle, of New York.

STATEMENT OF HON. HENRY M. GOLDFOGLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK.

Mr. GOLDFOGLE. Mr. Chairman, the subject has been so well presented that really nothing remains to be added, and yet I would be untrue to those I represent and untrue to a work that I undertook and have been engaged in ever since I came to the American Congress if I did not now express my decided views with regard to the question before us.

The time has come when this Government must take decided action. The only way out of the difficulty is to abrogate the treaty of 1832. The American Government has entirely too long per-

mitted itself to be played with by Russia. Russia has from time to time made promises of better treatment to our citizens, and has in various forms of language given America to understand that she would at some time in the near future extend uniformity of treatment to our citizens presenting passports to her. In each instance she failed to keep her promises. I have never been deceived about Russia's attitude. I have had a large experience with this passport proposition. I have been called upon by hundreds of citizens of this country, native and naturalized, to have their passports viséed by the Russian authorities in this country, and in most instances the Russian authorities refused to visé the passport, solely on the ground that the holder was a Jew. No other ground assigned; no other ground existed.

I have had interviews with Russian ambassadors here concerning the refusal of Russia to honor the passports. Those ambassadors placed the refusal to honor the passports on the ground that the American citizen was a Jew. Our American Department of State unfortunately in 1907, by the issuance of the circular that was referred to this morning, gave encouragement to Russia to continue her course of discrimination toward our citizens. For the first time in the history of our Government, the American Department of State undertook to classify our citizens by religious faith or creeds. The Department of State undertook to say that passports would not be issued to Jews desiring to enter Russia unless they had assurance in advance that Russia would consent to their admission.

I am glad that that circular, which continued in existence and which was sent broadcast throughout the land for a period of nearly eight months, was finally withdrawn; but it was not withdrawn until after my colleague, Congressman Harrison, and I had both vigorously protested against its issuance, and until a resolution was introduced in the House—I introduced it—calling for the production of that offensive circular, and until Mr. Harrison, on behalf of himself and others of the then Foreign Affairs Committee, insisted, as I also did in the House as well as at the department, that that circular was an insult to our citizenship. I only mention it to show that our Government has been lax.

Let me see whether I am right in asserting that this is the hour when the treaty should be abrogated by congressional action.

Russia has been temporizing with us, I say. She has from time to time cunningly and craftily evaded the issue. American statesmen of the highest order have placed the proper construction upon Article I of the treaty, insisting that the American citizen holding the passport is entitled to entrance into Russia as unrestricted and as unmolested as America permits the Russian subject to come unrestricted and unmolested into our domain.

Time and time again the Secretaries of State—some of those who have been most eminent in statecraft—have written their opinions concerning Russia's duty under the treaty of 1832 and insisted that Russia should uniformly recognize the passports without regard to the religion or the creed of the holder of it. Russia remained deaf to our appeals. Russia closed her ears to our demands.

The Department of State urged upon our ambassadors abroad to intercede with Russia to secure a change of Russia's attitude, and have Russia take back her false construction she placed upon t

treaty. Our remonstrances have been in vain. In 1902 the House of Representatives passed my resolution calling on the Secretary of State for information concerning Russia's discrimination between our citizens and her refusal to honor the passports. Diplomatic intercession followed the passage of that resolution. Again Russia remained obstinate.

In 1904, under the instructions of the State Department, the American ambassador at St. Petersburg demanded, in language as forcible as a diplomat could possibly put it, that Russia recede from her position and honor the passports of our citizens. In that communication, which conveyed to the Government of Russia the text of the resolution of 1904 (a resolution I had introduced) the ambassador prophesied just what is now taking place. He told the Russian Government that this question was acute, that it was liable to be brought forward at some time in such a way as to perhaps seriously disturb the friendly relations that existed between Russia and the United States. He did not mince words. It was a plain, distinct, unqualified demand for the uniform recognition of our passports; and yet Russia kept on her temporizing course. She proclaimed that a commission was appointed to revise the passport regulations, and then gave America to understand, in some way through means of her agents or semiofficial newspapers, that the commission was working out a plan under which our passports would receive uniform recognition, and that commission went out of existence, or if it did not go out of existence the commission has done nothing up to the present hour.

In 1909 the Congress passed, and on the 4th day of March of that year the President approved, a joint resolution—it was part of the resolution which I introduced—requiring the President to renew his negotiations to secure from Russia the removal of the restrictions, or some definite, clear treaty stipulation under which there should be uniformity of treatment accorded to our citizens holding passports.

At this stage I wish to make special mention of this resolution, because that resolution is erroneously stated in the book published by the committee. I want to say that the resolution passed without preamble by both Houses and was approved by the President March 4, 1909.

Under that joint resolution, under that mandate of the Congress of the United States, it is said that negotiations were again started and Russia was again asked and, it is asserted, was again implored to change her course and recognize our passports regardless of the creed of the holder. And yet Russia has continued to remain obdurate.

Mr. SHARP. At that point may I ask this question?

Mr. GOLDFOGLE. Certainly.

Mr. SHARP. You seem to be exceedingly well informed on the subject, and I want to ask if in your study of the question you have come to any particular conclusion as to the real reason why Russia persistently refuses to recognize these passports—that is, whether it rests upon the ground solely of the religious belief of the Jews or does it grow out of that coupled with a jealous feeling? There are over 5,000,000 Jews in Russia, I understand, and they have made great progress in commercial affairs, and I should like to get your views growing out of your investigations and study of this question.

Mr. GOLDFOGLE. I should like to answer that. I shall answer the first part of your inquiry as I answered the Committee on Foreign Affairs in 1902, when a similar inquiry was put. Russia dishonors the passport on religious grounds. If the holder of the passport was born a Jew and afterwards been converted to another faith, he can, because of that conversion, have his passport unqualifiedly visèed. There would be no objection to his going into Russia. Russia would not then recognize him as a Jew.

Mr. LEGARE. Suppose he became a Catholic?

Mr. GOLDFOGLE. I am coming to that. If, on the other hand, he happened to be born a Christian and then became a convert to Judaism, Russia would refuse to recognize his passport and would dishonor it upon the ground that he was a Jew.

Russia will let a man in if he declares he is not a Jew, or upon it appearing that he does not come within the classes of persons she excludes, the passport will be visèed. I understand that she has in certain cases of priests and missionaries refused to allow those priests and missionaries to come within her borders. That is because she is opposed to the religions they profess. These priests and missionaries being of a religion that is not in accord with their ideas, Russia undertakes to exclude them though they come armed with our passports.

Mr. DIFENDERFER. In that connection I would like to ask this question: Whether Jew or Gentile, if you hold an American passport in any of the provinces of Russia that has not been visèed by the Russian Government, is it not a fact that no Russian subject is permitted to give you a drink of water or a bite to eat or shelter, under penalty of prosecution?

Mr. GOLDFOGLE. You can not get into Russia without a visé of the passport.

Mr. DIFENDERFER. I am speaking particularly now of Siberia, where sometimes Americans will get in; for instance, in some of the eastern parts of Siberia Irkutsk, sometimes Americans have gotten in there, and I understand that they are not permitted under penalty of prosecution, whether they are Jews or Gentiles, to give them any food or shelter.

Mr. KENDALL. That is in the absence of any visé at all.

Mr. GOLDFOGLE. That is in the absence of any visé, because it would be a violation of the Russian law to enter Russian territory without a visé of the passport.

Mr. KENDALL. That is not the question involved here, is it?

Mr. GOLDFOGLE. I do not think it is. I was about to say that we have reached the parting of the ways. I have told this committee of some of the steps that have been taken from time to time to get Russia to recède. We have exhausted our diplomatic resources. Congress to maintain the dignity of our citizenship and uphold the equal rights of our citizens should now say that the treaty must be terminated.

To think that an American citizen should have to submit to an inquisition into his religious belief; that because he is of some one or other of religious beliefs or creeds he shall have it said to him that he is not to be accorded treatment equally with his fellow citizens is a humiliating condition of affairs that America should no longer tol-

erate. To that end I also introduced a resolution to abrogate the treaty. As a self-respecting nation, as a country that guarantees to its citizens equality of treatment, and issues passports that call on a sister nation to extend all friendly aid and protection, we can not allow such sister nation to turn her back upon our passport with scorn and contempt. Such a condition ought to be stopped now and at once.

The CHAIRMAN. We quite agree with Mr. Goldfogle, and I think the committee is almost unanimously in favor of the adoption of the resolution providing for the abrogation of this treaty. Would you like to proceed a little further? I ask this question because there are several other members of the committee who would like to be heard briefly.

Mr. GOLDFOGLE. No; I simply want to impress upon this committee my earnest wish that it will unanimously report the resolution to abrogate the treaty.

Mr. KENDALL. I want to inquire how much longer our session will continue.

The CHAIRMAN. Just a short time, to allow these members of the House to say a few words and to get some matters into the record. First, I will call on Hon. Charles B. Smith, of Buffalo, who will address the committee.

STATEMENT OF HON. CHARLES B. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK.

Mr. SMITH. Mr. Chairman and gentlemen of the committee: Recognizing as I do that the abrogation of the Russian treaty would entail complications in our commercial and industrial affairs, I feel, nevertheless, that if the Russian Government fails to exhibit an immediate and definite inclination to observe the treaty in all its provisions, this committee will be justified in reporting to the House the Sulzer resolution with a recommendation for its adoption.

For more than 30 years negotiations have been under way for the settlement of this passport question. A mass of correspondence has accumulated in the State Department bearing upon the subject. But the important fact stands out that the Government of Russia continues to reject the passports of Hebrew citizens, Roman Catholic priests and bishops, and the missionaries of Protestant denominations.

We are confronted by this problem: Shall we hazard the loss of our trade with Russia at the expense of our national honor? That is the question to be passed upon by this committee. I sincerely hope that the Russian Government will alter its policy and honestly observe the solemn agreement entered into with the Government of the United States. If, however, it refuses to recognize the binding quality of the compact, the treaty will remain a mockery and should be abrogated without further controversy or delay.

I desire to present to the committee certain addresses delivered at a mass meeting held in Buffalo December 3 at the Temple Beth-El, in Richmond Avenue. Among those who spoke in favor of the abrogation of the treaty were:

Elliott C. McDougal, president of the Bank of Buffalo and former president of the Chamber of Commerce of the city of Buffalo.

The Rev. H. Lester Smith, pastor of the Delaware Avenue Methodist Church. Dr. Smith spoke for himself and as the representative of Bishop Berry of the Methodist Episcopal Church.

Mr. John T. Ryan, merchant, and Mr. Michael Nellany, capitalist, speaking for themselves and for the Roman Catholic Bishop of Buffalo, the Rt. Rev. Charles H. Colton.

The Rev. Carl D. Case, pastor of the Delaware Avenue Baptist Church.

Mr. Wesley C. Dudley, district attorney of Erie County. Mr. Dudley presided at the meeting.

Dr. J. H. Landau, S. P., rabbi, Temple Beth-El.

Charles B. Smith, Member of Congress.

The addresses follow:

Dr. J. H. Landau, S. P., rabbi, Temple Beth El, said:

The passport of the United States Government is not recognized by Russia when it is presented by an American citizen professing the Jewish faith, by a Roman Catholic priest, or by a Protestant missionary of various denominations. This discrimination has been practiced for 40 years and the agitation over this question has now reached a head. A resolution asking for the nullification of this treaty, unless its terms be honored, has been moved in the House of Representatives by Congressman Parsons. A similar resolution has been moved in the Senate by Mr. Culberson of Texas. The Committee on Foreign Relations of the House of Representatives unanimously favors the resolution of Congressman Parsons. The legislatures of 15 States have passed resolutions on this subject. Ten State legislatures have gone on record as unqualifiedly in favor of the termination of the treaty of 1832. The last national Republican and Democratic conventions pledged themselves to use every effort to remove this slur upon the dignity and prestige of our country, and most of our great newspapers have stoutly advocated and defended this course. It is evidently, therefore, the emphatic opinion of our citizenship without regard to denominational lines that the American passport as such should be respected and must be respected when presented by any American citizen by every nation upon earth. This is a question that is vital to every American, for it concerns the dignity and the prestige of our country. It concerns our pride in our citizenship and the respect in which we are held among the nations. For 30 years we have been expostulating on this matter. Let me read some of the correspondence on this subject directed to Russia or our representatives in Russia by Presidents and State Secretaries and then you will understand how continuously we have been humiliated over this question.

"Advise the Russian minister of foreign affairs," said Secretary Blaine, "that we can make no new treaty with Russia nor accept any construction of our existing treaty which shall discriminate against any class of American citizens on account of their religious faith."

"The Government of the Czar," said Secretary Bayard, "is fully aware that we do not admit the principle of discrimination against any American citizens because of their religious tenets."

"The action of Russia," said President Harrison, "is at variance with the character of our institutions, the sentiments of our people, the provisions of our statutes, and the tendencies of modern international comity."

But although Presidents and State Secretaries, national and State conventions, have declared upon this theme in gentle platitudes or in loud and definite defiance, all our efforts have been abortive; despite all diplomatic correspondence, congressional resolutions, and platform planks, Russia has scarcely even condescended to answer us with a word. She has treated the expostulations and the denunciations of the spokesmen of this country with the most absolute contempt. To bring home to you forcibly the indignities we have suffered as a Nation over this passport question at the hands of Russia, I need but remind you that the American ambassador to Turkey, the Hon. Oscar Strauss, when desirous this year of entering Russian territory, was refused such admission because he was a Jew. Finally the concession was made to him, though scornfully and properly refused, that he, an ambassador of the United States of America, would be graciously allowed to tread the "holy" soil of Russia "notwithstanding that he was of the Jewish persuasion." When so scandalous an event as this can occur, when such a humiliation, insult, and indignity can be imposed upon an American diplomatist of the highest rank, officially representing the power and majesty of this Government, none of you will deny that this is a question vital to every American and that it does affect the dignity and the prestige of this land. It

is, however, a question of more than prestige and dignity. It is a question which involves the honor of our country. The right of every American citizen without discrimination to travel and trade in Russian territory is secure and guaranteed under the seal of our own Republic in the Russian-American treaty of 1832; yet for 40 years our Government has not enforced this right which it has stipulated and assured to every American citizen.

For 40 years we have been knocking at the doors of diplomatic chambers or waiting anxiously upon the threshholds of executive mansions; have besieged the Department of State and pleaded in the halls of legislation, for what? Not merely for our natural and inalienable rights as citizens of a free country, but for the enforcement of the written bond exacted in our behalf by our own Government. Even as recently as October, 1908, William Howard Taft said: "Of this you can be certain, that the certificate contained in an American passport shall have the effect that it ought to have." Again, he said: "The American passport must be respected the world over, and every effort shall be made to this end." Yet his promises have proved as abortive as those stipulated and assured to us under the great seal of our Republic. As Americans we demand that our Government fulfill its sworn pledge and perform its plain duty—the duty it owes to itself and to its citizens of every class and creed—to uphold its honor, its dignity, its integrity; and that it accord to those from whom all government derives its just powers—the people of the land—that distinction and consideration which are inseparable from the proud title of American citizen.

I desire to say, in conclusion, and most emphatically, that this is not a Jewish but an American question. As Secretary Evarts said in 1881: "We ask treaty treatment for our grieved citizens not because they are Jews but because they are Americans."

American Jews in any considerable numbers do not desire to visit Russia, the torture chamber of their race; the sweet, delectable land filled with pleasing recollections of their women ripped open and the eyes of their children gouged out; the land where the pitless mobs urge and surge about them, crying, "Thou art the accursed of God and man, thou shall be a fugitive and an outcast in thine own land. The hand of all men shall be uplifted against thee, and thy hand shall be powerless against them. Our laws shall not be thy laws; our rights shall not be thy rights. Thou shalt be compelled to live separate and apart in the filthiest quarters of the city and there be exposed to insults and the heartless mobs." No, it is not a Jewish question; we do not want to return to hell. It is simply a question of principle vital to all of us, Jews and Christians alike, in vindication of our citizenship. I ask you to strengthen the hands of the good people who are working to compel Russia to respect her treaty obligations. If she will not, then let us with quiet dignity treat Russia as we would treat an individual unworthy of further association; let us sever ourselves from all treaty arrangements with a country that does not honor its pledged word and which additionally pours contempt upon the significance and prestige of that citizenship that is the dearest possession of every American.

Mr. John T. Ryan said:

I am here at request of one of Buffalo's citizens—one whom, irrespective of nationality or religion, all respect and love—the Right Rev. Charles Colton, bishop of the Roman Catholic diocese of Buffalo. He desires me to convey his regrets at not being present and to say this movement has his indorsement. It is gratifying to see so many of Buffalo's prominent citizens enlisted in this cause, the first day of the week to note those gentlemen on this platform, representing all religious and political beliefs. The previous speakers have been temperate in their remarks, and I would not detract from nor add to what has been already said, except to congratulate Dr. Landau on this meeting, and to say that the treaty of Russia and the United States, as far as American passports are concerned, should be respected by the Russian Government.

We are willing to concede the splendid tribute Russia is entitled to in the past for her kindness when our Republic needed assistance and when famine threatened the land. It is our desire that this matter between governments be considered carefully, and, understanding the machinery of government sometimes moves slow, it is our hope that after 30 years a settlement of this matter can be reached. It is to be regretted that in a Government like ours it should necessitate on the part of her citizens meetings of protest from gatherings such as this. In Russia it is different. Public officers here should carry out the mandates of our people or resign.

It is pleasing to note the presence of Congressman Smith on this platform and that the courage of his conviction will move him to act in behalf of this question.

Gentlemen of the committee, now that this matter has been brought to the attention of authority, we desire to say our citizens will stand back of this movement and request our Representatives to bring the matter as soon as possible for consideration and settlement in Congress.

Mr. Ellicott C. McDougal said:

Mr. Chairman, Dr. Landau, ladies, and gentlemen: The speakers who have preceded me have so thoroughly covered the subject that I will call attention to a very few points.

The Russian consuls in this country have made a practice of holding inquisitions over Jewish citizens who desired to visit Russia, as authorized by the treaty of 1832. That this should be done on our own soil is an affront to the United States of America, which, while it should not be resented in bad temper, can not consistently be permitted.

The Russian Government appears to be interested in the steamship line operating between New York and Libau. While, under ordinary circumstances, a Jewish citizen can not get his passport viséed by a Russian consul, the same Jewish citizen, providing he purchases a ticket over this steamship line, has no trouble.

The following are the facts in a particular case:

Mr. Herman Bernstein, a citizen of New York, desiring to visit Russia, and aware of the uniform refusal of the Russian officials to visé American passports if the holder thereof happens to be a Jew, was advised that he would encounter no difficulty if he engaged passage in the Libau steamer, being part of the volunteer fleet belonging to the Russian Government. He accordingly purchased his ticket for Libau on the steamship *St. Petersburg*, and on May 13, 1908, went to the Russian consulate to have his passport viséed. On entering the consulate he was handed a paper and was asked by an official to fill it out. He wrote therein his name; the place of his birth, Scherwindt, Germany; his occupation, author and business representative. He was asked to state whether he was a citizen, which he answered in the affirmative. The line in which he was asked as to his religion he left blank. A statement he was about to make was prevented by the official's declaration that he wanted the blanks filled—nothing more. The paper (with the religious blank unfilled) was handed to the official, who asked: "Are you going on business or on a pleasure trip?" Bernstein answered that he was going as a business representative and was also interested in the emigration question, which he might describe. The official then took the blank and handed it to the vice consul, who kept it for about 10 minutes, then walked over to where Bernstein was, told him the fee was $1.20, and viséed the passport.

Besides the treaty of 1832, the extradition treaty of 1887 is in force between Russia and the United States of America. It is intended to provide for the return to either country of offenders against the laws of either. While many Russian subjects flee to this country for an asylum, it is inconceivable that any American should flee to Russia. The advantages of this particular treaty are practically all on the side of Russia. Notwithstanding this, and notwithstanding the fact that the rights of American citizens under the treaty of 1832 are systematized and in the most humiliating way disregarded by Russia, the United States has faithfully observed its treaty obligations, and very properly so. So long as any treaty is in force we should faithfully carry out our obligations, even should the other party to the same treaty decline to fulfill its obligations. To any careful observer who is familiar with Russian history, and who has watched Russia's attitude in this particular case, it is perfectly evident that she is not sincere; neither does it appear, unless we are to disregard the light of experience, that anything can be done by further negotiations.

On motion of Mr. McDougal the Sulzer resolution was unanimously indorsed.

The CHAIRMAN. I will call on Representative Murray, from Massachusetts.

STATEMENT OF HON. WILLIAM F. MURRAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS.

Mr. MURRAY. Mr. Chairman and gentlemen of the committee, I am not at all surprised that the gentleman from Iowa, Mr. Kendall, was more or less anxious about the time of adjourning, because, after the brief remarks of Mr. Goldfogle that I was permitted to listen to, I can readily understand that the committee does not desire general comment.

We all seem to be agreed that this matter has come to such a point that the United States can, consistently with its honor, do but one thing, and that is insist on the honoring of passports abroad held by

citizens of the United States; or, on the other hand, the absolute abrogation of the treaty of 1832, which has been so shamefully dishonored in this matter of not recognizing the passports issued by this Government.

Without taking up but a few minutes of your time, I may perhaps be able to express to you something of the feeling that exists in regard to this question in puritanical Massachusetts and in the city of Boston, in the district I represent. Here in the House of Representatives the other day in the corridor of the Capitol, the members of the Massachusetts delegation had the pleasure of meeting a delegation of citizens from Massachusetts. They came here not as Hebrews, not as Jews, but as citizens of a great State and city, believing that they should have their equality as citizens before the law. In discussing the matter with them we saw very clearly that they have a point of view on this matter that is much broader than any race question, that is much broader than any religious belief might be. They insisted simply on their rights as American citizens regardless of race, regardless of religion.

As I understand it, this resolution pending before the committee is now urged with the idea of having it presented to the House of Representatives as soon as possible, and I am glad to say that those principles as expressed to me by that delegation seem to be the principles that have prompted the chairman of the committee, Mr. Sulzer, in introducing this resolution, No. 166.

The gentleman from Buffalo, Mr. Smith, told you of that meeting held in Buffalo. There is to be a meeting held in Boston. A meeting will be held next Wednesday night in Faneuil Hall, the famous temple of liberty, in that historical building where the fight was made for the principles of liberty which are so dear to us all. In that hall on that night there will be a meeting addressed by Gov. Foss; by the mayor of the city, the Hon. Mr. Fitzgerald, formerly a member of Congress; addressed by men of every religious belief, as many as can be crowded into the confines of a three or four hour meeting. There will be other meetings, but that meeting, under the auspices of the city and the State, is a meeting to which I wish to call the attention of this committee. That meeting will take action in reference to this resolution.

The Massachusetts Legislature at its last session—and it meets every year—passed a resolution, during last summer, memorializing the Members of Congress and Cabinet officers and the President of the United States on this very proposition. By unanimous consent I had that resolution introduced in the Congressional Record during the summer and made a short talk leading up to the presentation of that resolution. It is not just the form of resolution that some of us in Massachusetts wanted to have adopted, but at least it is a resolution from a great legislature of a great State, which has seen fit to take notice of this matter, and it took notice of it solely and entirely in response to the public feeling of the State of Massachusetts in the matter.

I only say, then, that we in Boston and in Massachusetts are watching with close interest the outcome of this hearing, the outcome of this matter being considered by this committee. We sincerely hope that there may be not a divided committee report, but a unanimous committee report to the Congress of the United States, which will

reflect the almost unanimous sentiment of the citizens of the country that this treaty should be followed or entirely abrogated. [Applause.]

The CHAIRMAN. Are there any other gentlemen who wish to be heard?

Mr. MURRAY. Mr. William O'Brien, president of the Boston Central Labor Union, happens to be here to-day, and perhaps he would like to address the committee.

The CHAIRMAN. We will be very glad to hear from Mr. O'Brien.

Mr. WILLIAM O'BRIEN. I appreciate the courtesy extended me, Mr. Chairman, but I content myself with saying perhaps as to Faneuil Hall meeting they will get it from me red-handed there. I thank you, however, for your courtesy.

The CHAIRMAN. That will conclude the hearing, and we will adjourn.

(Thereupon at 4.40 p. m. the committee adjourned.)

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Tuesday, December 12, 1911.

The committee met at 10 o'clock a. m., Hon. William Sulzer (chairman) presiding.

The CHAIRMAN. The committee will come to order to hear Representative Harrison, of New York.

STATEMENT OF HON. FRANCIS BURTON HARRISON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK.

Mr. HARRISON. Mr. Chairman and gentlemen of the committee, I have so often had the honor of addressing myself to this subject in the House of Representatives that I shall not try your patience at any great length this morning. In fact, it would be presumptious on my part to attempt to add to the force and eloquence of the splendid hearing that was had before your committee on this subject yesterday. I wish merely to address myself for a few moments to but one phase of this matter: My reasons why I believe the time has come to abrogate the treaty.

I call your attention to the fact that for many years in this matter we have been the tools of Russian diplomacy. We have entrusted the assertion of our national principles to the paths of diplomacy, and it has been in vain. Many resolutions have passed the House of Representatives on this subject, merely to find their final resting place in the scrap basket of the Russian prime minister. Many representations have been made directly to the Russian Government by our diplomatic agents over there and have served as food for the inextinguishable laughter of the Russian Grand Dukes. The time has passed for talk and the time for action has come.

This is not a partisan movement; it is a movement in which the entire American people are taking part. I speak of that because in my judgment the reason why the strong representations made by our Congress and by our administration to Russia have received so little attention in the past is because the Russians do not believe we are in earnest. They have frequently said so in private conversation with public men in this country who are interested in this matter——

The CHAIRMAN. I quite agree with you about that, Mr. Harrison.

Mr. HARRISON. And their newspapers frequently publish statements to that effect.

Mr. FLOOD. They think it is a political move on somebody's part.

Mr. HARRISON. They think it is a political move on somebody's part, and that is a subject which I propose, if I am granted the time, to discuss in the House of Representatives; but I could not burden your committee with it at this time. But if, in the chain of communication between the American people and the court of Russia, there has been any insincerity or faltering on this subject, if any official of the State Department has handed to a Russian ambassador a resolution of our Congress with his tongue in his cheek, or if an American diplomatic representative in St. Petersburg has presented to the minister of foreign affairs the resolutions we have passed on the subject with an ill-concealed sneer, you may be sure that the Russian Government has been fully aware of it.

It is difficult for gentlemen over here thoroughly to understand and appreciate what or whom it is who governs Russia, and to what or to whom we must, in the final resort, take our appeal in this matter. In the first place, in Russia there is no such thing as public opinion. There are no such things as newspapers, in the sense in which we understand them. In Russia there are no public meetings, there are no crowds, there is no public; there is no political entity to which we may appeal, or before which we may assert our rights, other than a small group of bureaucrats, who, for the past generation, have been presided over by the procurator of the Holy Synod. It has been said by the Russians recently that if we would be patient a little longer, and if we would forget we had already waited 30 years to have respectful attention paid to our representations, the matter would be settled by the Russian Duma, or parliament. But when we recall that the first Duma which gathered in that unhappy country a few years ago lost nearly two-thirds of its membership from arrest and imprisonment, because they had dared to express their opinions upon a public question, we may well hesitate to entrust to that legislature an assertion of the rights of Americans, when they are unable to assert their own.

The alternative proposition by Russia is that this matter is being investigated by a Russian commission. To those who have been in public life in this country it will occur immediately that this is the most familiar and acceptable way of asphyxiating any reform; and that is the way Russia is alleged to have used her commissions. But when recently pressed for a statement as to what commission it was that was to make revision of the passport law, Russia replied that it was the Durnovo Commission. An investigation of that statement disclosed the fact that this Durnovo Commission had ceased to exist many years before that when it was in existence, it never considered, or never was formed to consider, the American passport question, and that Durnovo, its chairman, was one of the most celebrated Jew baiters of Russia.

Mr. GOODWIN. I suppose that they mean that they will consider the matter de novo. [Laughter.]

Mr. HARRISON. I only speak of these things to show that the day for diplomacy in this matter has come to an end.

How do you suppose Russia finds out whether our public men are in earnest or not? I will venture to say that there was not a fleeting expression on the face of any member of the committee here yesterday which, if it is deemed worth while, will not be known to Russia. When I was in St. Petersburg with my father some years ago the American minister there requested my father to carry with him out of Russia certain confidential dispatches, to be mailed by him in London to the State Department here, stating to my father that the reason why he did so was because he found that the Russian Government generally opened his official dispatches in the post office, both going and coming. They have the most complete system of underground information known to the modern world. And yet, with all that, they do not share that information with the Russian people, nor, curious as it may seem to some of you, do they even impart it all to the Emperor. The Emperor knows very little, indeed, I presume to say, about this question, or about any questions of foreign policy. All American travelers who have been in Russia have seen the home newspapers, if they have been allowed at all to go into that country, stamped out, whole columns of them, with black ink, and upon inquiry they have been informed that those columns related to affairs which it was considered by the official censor or blotter-out inadvisable to permit people in Russia to discover or discuss.

When I was there I met a gentleman who was a chamberlain at the Court of Russia, who informed me that his official occupation was stamping out the Emperor's newspapers; that the Emperor was not allowed by the Russian bureaucracy to read those columns of the foreign newspapers which contained foreign affairs. I suppose their reason was—although he did not state this—that in the past more than one Russian Emperor has been anxious to place his country in the forefront of progress and civilization.

I have presumed to take up your time with these statements because I want to call to your attention what I believe will be the result of the abrogation of this treaty. I have said that in this matter we are not dealing with the Russian people. I believe they know nothing about it. I doubt if we are even dealing with the Russian Emperor. I doubt if he knows anything about it. We are dealing with a small clique of bureaucrats, who are refusing to listen to our representations on this subject for their own selfish purposes, and the effect upon them of the abrogation of this treaty will be twofold. First, it may induce other countries to join us in the assertion of this principle; second, our action, with a knowledge of our reasons, may penetrate through this small group of selfish and unpatriotic Russians to the bulk of the Russian people. If it does that, I am confident we will secure a proper adjustment of this whole question. It is a matter upon which their own progress and civilization depend, and, believing as I do that the Russian people, if they are informed on this subject, will be unwilling to be placed in coventry by all the other nations of the world, I feel confident we will meet with a prompt response from them by taking a decided stand upon this treaty.

Surely it is not too much to ask of the American Congress that they should take a step forward in the assertion of human rights, when they have taken such a step so many times in the past in the assertion of property rights. We did not hesitate to denounce our treaties with France, with Belgium, with Chile, with other countries, in the asser-

tion of property rights, and we should not hesitate for one moment to assert in behalf of the defense of one of the best accepted of American principles our unwillingness any longer to tolerate the existence of our treaty with Russia. [Applause.]

The CHAIRMAN. We are much obliged to you, Mr. Harrison.

Mr. DIFENDERFER. Mr. Chairman, in confirmation, partly, of what Mr. Harrison has said, I want to refer to an incident with which I happened to be associated. During the siege in China I happened on one occasion to go with the consul, Mr. Ragsdale, to the consulate. The consulate had been locked, the gates of the walls around it had been locked, and it was in the evening. Mr. Ragsdale and I started. I went with him as a sort of a bodyguard. We went to the consulate, and when we reached the consulate gate we were challenged by Russian soldiers and not permitted to enter. The Russian soldiers had taken up the grounds of a very prominent Russian which adjoins the consulate. The minute we got to the gate we were challenged by a noise something like this [indicating], and the points of the bayonets were put at the pits of our stomachs and we were forbidden to go into the consulate.

Mr. KENDALL. What consulate was it?

Mr. DIFENDERFER. The American consulate.

Mr. GOODWIN. That was during the Boxer uprising?

Mr. DIFENDERFER. Yes, sir. They would not permit the consul himself to go into his own house. They had finally to bring some authority to bear even to permit us to go in. This matter was taken up among the people at the time in Tientsin, and the remark was made generally that, had it been any other country than America, they would never have stood for it, that an investigation would have been made. We never made any investigation at all.

(Thereupon, at 10.30 o'clock a. m., the committee adjourned.)

APPENDIX I.

DIPLOMATIC CORRESPONDENCE RESPECTING PASSPORT QUESTION.

In October, 1864, Bernard Bernstein, who was born in Russian Poland in 1823, and who emigrated to the United States in 1845 or 1846, owing military duty to Russia, was arrested in that country and imprisoned on a charge of having failed to perform military service. On the sixth day after his arrest he wrote to the Department of State, and the department, November 29, 1864, instructed the legation at St. Petersburg to take steps to secure his release. He was altogether discharged in March, 1865, in consideration, it was believed, of his American citizenship, which he acquired by naturalization in 1856. His actual imprisonment lasted only several days. The Department of State afterwards declined to make a claim for indemnity.

* * * * * * *

Bernstein's case formed the subject of a report to Congress. (Message of President Grant, Feb. 8, 1873, H. Ex. Doc. 197, 42d Cong., 3d sess.)
(Moore's Digest, Vol. III, § 453, p. 622.)

Mr. Fish, replying to an inquiry concerning the treaty relations between the United States and Russia and the treatment of naturalized citizens of the one country on their return to the other, the latter being their country of origin, said: "We have no special treaty with Russia on this subject, nor is this department informed as to her laws or practice in such cases. The friendly disposition manifested by Russia toward this Government would lead it to entertain the hope that its citizens, who conduct themselves properly in that country, would be allowed to travel therein without molestation." (1869.)
(Moore's Digest, Vol. III, § 453, p. 623.)

Mr. Seward to Mr. Clay.

(No. 187.) DEPARTMENT OF STATE,
Washington, January 31, 1866.

SIR: I transmit to you a copy of a communication of the 29th instant, from George W. Cook, of New York City, relative to the case of Benjamin Goldberg, a naturalized citizen of the United States, who, it is stated, has been arrested and held to military service in Poland while on a recent visit there. You are instructed to inquire into the circumstances attending the arrest, and, if it be deemed advisable, to do what you properly can to obtain the release of Mr. Goldberg.

I am, sir, your obedient servant, WILLIAM H. SEWARD.

(Diplomatic Correspondence, 1866, pt. 1, p. 391.)

Mr. Cook to Mr. Seward.

111 NASSAU STREET, NEW YORK, *January 29, 1866.*

SIR: I beg leave to call the attention of the Department of State to the case of Benjamin Goldberg, a naturalized citizen of the United States, who has been arrested while on a visit in Poland, and held for military service.

Mr. Goldberg left New York in the month of September last for the purpose of receiving an inheritance left him at Warsaw, or some other place, in Poland. He carried with him a passport received from the State Department at Washington, and the passport is numbered 21903, dated August 21, 1865.

I inclose a copy of Mr. Goldberg's letter apprising me of his arrest, also the original envelope containing the same, the postmarks on which may lead to where Mr. Goldberg is held.

I would respectfully request that the American minister or consul at Warsaw, or other place, may be instructed to inquire into the case of Mr. Goldberg and procure his release.

Yours, very respectfully, GEORGE W. COOK.

Hon. WILLIAM SEWARD,
Secretary of State.

(Diplomatic Correspondence, 1866, pt. 1, p. 392.)

Mr. Hoffman to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 29, 1879.

SIR: I have the honor to acknowledge the receipt of your dispatch, No. 52, calling my attention to the case of Mr. H. Rosenstraus, a naturalized citizen of the United States, of Jewish persuasion, and inquiring whether any preference is extended to British Jews or those of other nationalities in the matter of holding real estate in Russia; and if so, under what circumstances and by what legal instrument such exceptional privileges are conferred.

And, first, I am requested by Mr. Edwards to state that he did not inform Mr. Rosenstraus that British Jews are allowed to hold real estate in Russia, as alleged by Mr. Wise in his letter to the department. As consul, Mr. Edwards declined to give any opinion upon the subject, but while temporarily representing the minister of the United States he thought it right to answer Mr. Rosenstraus to the effect that, in his opinion, "the treaty in force between the United States and Russia conceded to him no rights in addition to those held and enjoyed by Russian subjects of like faith." I have the honor to inclose a copy of Mr. Edwards's letter.

In July last, at the request of Mr. Rosenstraus's brother and partner, Mr. Stoughton inquired of Mr. de Giers if alien Jews are allowed to hold real estate in Russia. Mr. de Giers was unable to answer, but promised to inquire in the proper quarter and inform Mr. Stoughton. No reply has yet been received. Since my return I have reminded Mr. de Giers of Mr. Stoughton's inquiry; but I should not be surprised if I received no answer. The foreign office in several countries of western Europe refuses to answer questions of law. It points you to the published statutes of the country, and if these are of difficult interpretation to the foreigner he must have recourse to his own counsel. Most of the embassies and legations here have counsel attached to them. As this legation does not enjoy this advantage, I am compelled to give you the result of my own examination of such books as are accessible to me and of my inquires in well-informed quarters.

The laws of Russia bristle with so many exceptions that the exceptions frequently appear to be the rule.

The strong personal element which pervades the administration of the Government frequently enables many individuals of a class to do what is forbidden to the class. Then the ancient laws of the States which have from time to time been annexed to the Russian Crown and the dangers apprehended from local political disturbances; or, on the other hand, the loyal and "well-intentioned" character of the community, and even the social status of the individual, have a most marked effect in modifying the application of the law.

In the old Polish provinces, Roman Catholics, native as well as foreign, are not allowed to hold land. In the Grand Duchy of Finland no alien is allowed to purchase real estate, not even a Russian, unless of noble birth; and in the Baltic Provinces all persons, foreign or native, who are not of the noble or "citizen" class are subject to many annoying restrictions in the purchase and tenure of land; while in Russian Poland the code enacts that a foreigner shall enjoy in Poland only those civil rights which are accorded to a Pole in the foreigner's country.

This system of exceptions is applied to the Jews. Under article 1516, Volume IX, of the code, foreign Jews are not allowed to settle in Russia or become Russian citizens. But as under several treaties, and especially that with Great Britain, their right so to settle is clear, they are in point of fact permitted to reside here. They do so, however, under restriction, one of which is that they must receive the permission of the three ministers—of finance, of the interior, and of foreign affairs—and another that they must belong to the first commercial guild, and, of course, pay accordingly. (Art. 1523, Vol. IX, of code.)

So, as regards real estate, native Jews are not permitted by law to hold land in Russia; yet it is notorious that many do hold it. When they reside far from the Polish frontier, when they live in a peaceful and loyal part of the Empire, when their social position and wealth are a guaranty that they will earnestly support the Government, the authorities close their eyes and do not see the most transparent subterfuges.

Foreign Jews stand upon a better and more legalized footing. Under article 1523 it is permitted to "alien Jews, distinguished by their position in society or their extensive business transactions, to establish banking houses and manufactories, and to hold real property;" and in this respect all alien Jews, American and British, stand upon precisely the same footing.

This position of British Jews has, as far as I can learn, given rise to no reclamation on the part of Great Britain. They are allowed under the treaty to settle in Russia, and they are granted privileges not accorded by law to native Jews.

In Mr. Rosenstraus's case the reasons why the authorities in Kharkoff do not find in him the qualities necessary to bring him within article 1523 of the code are easily guessed.

Since 1865 his brother and partner have been in a chronic state of difficulty with these authorities. In that year he wrote to Mr. Clay that he would not be permitted to continue his business unless he produced his certificate of christening. Mr. Clay intervened, and, in due time was answered by the foreign office that, as an American, Mr. Rosenstraus enjoyed "exceptional tolerance" but that he had abused the protection extended to him by the legation. Again, in 1873, Mr. Rosenstraus complained; the principal cause of complaint on this occasion being that he was compelled to belong to the first guild and pay 600 rubles, instead of to the second guild, and pay 150 rubles. Mr. Jewell intervened, expressly disclaiming, however, a demand for any privileges not extended to native Jews, and in due time was answered that the laws as regards the different guilds had been amended (par. 5 of the annex of art. 128 of the Code of Commerce) and that Mr. Rosenstraus was clearly in the first guild. Mr. Westerman added that this was a matter within the exclusive competency of the municipal authorities, and that the central government never interfered with them.

I have the honor to call your attention to the fact that Mr. H. Rosenstraus is a naturalized citizen of the United States; that he has now been absent from the country for over three years; that he manifests no intention of returning, but on the contrary speaks as if he was permanently settled at Kharkoff, and is desirous of buying real estate there; that apparently he pays no taxes, performs no militia or jury duty; in short makes no return whatever for the protection he claims from the United States.

WICKHAM HOFFMAN.

(Foreign Relations, 1879, p. 921.)

Mr. Evarts to Mr. Foster.

DEPARTMENT OF STATE,
Washington, April 14, 1880.

SIR: I have received a letter from Messrs. S. Wolf and A. S. Solomons, of this city, representing the "Union of American Hebrew Congregations," in which they refer to newspaper statements indicating that the Jews in Russia have recently been subjected by the Government there to extraordinary hardships, and expressing a desire that the minister of the United States to St. Petersburg may be instructed to "make such representations to the Czar's Government, in the interests of religious freedom and suffering humanity, as will best accord with the most emphasized liberal sentiments of the American people." The writers of the letter observe at the same time that they are well "aware of the impropriety of one nation interfering with the internal affairs of another in matters of a purely local character."

You are sufficiently well informed of the liberal sentiments of this Government to perceive that whenever any pertinent occasion may arise its attitude must always be in harmony with the principle of extending all rights and privileges without distinction on account of creed, and can not fail, therefore, to conduct any affair of business or negotiation with the Government to which you are accredited, which may involve any expression of the views of this Government on this subject, in a manner which will subserve the interests of religious freedom. It would of course be inadmissible for the Government of the United States to approach the Government of Russia in criticism of the laws and regulations, except so far as such laws and regulations may injuriously affect citizens of this country, in violation of natural rights, treaty obligations, or the

provisions of international law, but it is desired that the attitude of the minister, as regards questions of diplomatic controversy, which involve an expression of view on this subject, may be wholly consistent with the theory on which this Government was founded.

I am, sir, WILLIAM M. EVARTS.

(Foreign Relations, 1880, p. 873.)

Mr. Hoffman to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 7, 1880.

SIR: I have the honor to report to you the case of Henry Pinkos, an Israelite and citizen of the United States.

About a fortnight ago this man was brought to me by Mr. Edwards, who informed me that Pinkos had been ordered to leave St. Petersburg. The latter told me that all foreign Jews had been ordered to leave this city at once.

I wrote immediately to Mr. de Giers, and Mr. Edwards saw Gen. Zouroff, the prefect of the city, and obtained from him a delay of three days.

As I did not hear from Mr. de Giers, I went to see him and suggested that this man might at least have a delay of some weeks in order that he might dispose of his property or embark with it for England on the opening of navigation. When the three days had expired I applied to Gen. Zouroff for a further extension and obtained a week. As no vessel had in the meantime arrived, I applied at its expiration for still further delay and obtained three days more, with an intimation that Gen. Zouroff regretted that it would be impossible for him to grant any further delay.

The extended time expires to-day. English steamers have in the meantime arrived and Pinkos will be able to embark at once with his family and property.

I have heard nothing whatever from Mr. de Giers, from which I infer that he is unable to interfere with Gen. Melikoff's order. Upon calling at the foreign office yesterday, I was unable to see him on account of the Easter holiday.

I understand that since it has appeared, many Jews have been engaged in plots against the Emperor, and that foreign Jews have been ordered to leave not only St. Petersburg but Moscow and some other large towns where they have hitherto been permitted to reside.

I have, etc., WICKHAM HOFFMAN.

(Foreign Relations, 1880, p. 873.)

Mr. Hoffman to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 17, 1880.

SIR: Referring to my dispatch No. 205, in relation to the case of Henry Pinkos, an American citizen and an Israelite, I have the honor to inform you that I am at length in receipt of a note from Mr. de Giers, in answer to mine of the 20th of April.

The Russian Government grants to Mr. Pinkos a delay of three months in order to wind up his business.

On sending to notify him, I found that he was still at St. Petersburg, the police superintendent of his district having permitted him to remain from day to day since the expiration of the time allowed him by Gen. Zouroff to await the answer of the Russian Government.

I have, etc., WICKHAM HOFFMAN.

(Foreign Relations, 1880, p. 874.)

Mr. Evarts to Mr. Foster.

DEPARTMENT OF STATE,
Washington, June 28, 1880.

SIR: I have the honor to acknowledge the receipt of Mr. Hoffman's No. 205 and 208 in relation to the expulsion of foreign Jews from certain large towns and cities of Russia and the expulsion of Mr. Henry Pinkos, a Jew and an American citizen from

St. Petersburg, in particular. It appears from the latter dispatch that Mr. Pinkos has been allowed to remain three months. Mr. Hoffman does not specifically state that Mr. Pinkos or the other Jews referred to have been ordered to leave Russia as well as St. Petersburg, but that is the implication of the dispatches.

In reply I have to observe that the presence of this fact that an American Jew has been ordered to leave Russia on no other ground than that he is the professor of a particular creed or the holder of certain religious views, it becomes the duty of the Government of the United States, which impartially seeks to protect all of its citizens, of whatever origin or faith, solemnly, but with all respect to the Government of His Majesty, to protest. As this order of expulsion applies to all foreign Jews in certain towns or localities, at least of Russia, it is of course apparent that the same is not directed especially against this Government, of which Mr. Pinkos is a representative, and indeed the long standing amity which has united the interests of Russia with those of this Government would of itself forbid a remote supposition that such might be the case. Notwithstanding this aspect of the matter, the United States could not fail to look upon the expulsion of one of its citizens from Russia on the simple ground of his religious ideas or convictions, except as a grievance akin to that which Russia would doubtless find in the expulsion of one of her own citizens from the United States on the ground of his attachment to the race of his fathers.

It is intimated in Mr. Hoffman's No. 205 that the reason of this order may be found in the supposed implication of the Jews in the plots formed against the life of the Emperor, and in so far as this may be true, the Government of Russia has the entire sympathy of the United States in all just preventive efforts, and if there exists good evidence that Mr. Pinkos has been connected with any of these attempts, the Government of the United States can not object to his expulsion on that ground. But such a charge does not appear to have been made against Mr. Pinkos, and it is confidently submitted to His Majesty's Government whether in the event Mr. Pinkos should be finally expelled from Russia, or be otherwise interrupted in his peaceful occupations, on the sole ground that his religious views are of one kind rather than another, he would not be justly entitled to make reclamation for the damage and loss to which he might thereby be subjected.

You will present these views at the foreign office in the courteous spirit in which they are made.

WM. M. EVARTS.

(Foreign Relations, 1880, p. 875.)

Mr. Hoffman to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 15, 1880.

SIR: I have the honor to acknowledge the receipt of your dispatch, No. 14, addressed to Mr. Foster, in which you instruct him to make certain representations to the Imperial Government in relation to the expulsion of American Jews from Russia, and especially in reference to the case of Mr. Henry Pinkos.

* * * * * * *

In relation to this particular case, I have unofficial reasons for believing that at the expiration of the three months granted him, if he wishes to remain, he will not be disturbed. He tells me, however, that he has had enough of Russia and wishes to return to the United States.

I may be permitted to add that I did not intend to imply in my No. 205 that Mr. Pinkos had been ordered to leave Russia. I stated that "he had been ordered to leave St. Petersburg." I carefully examined and had a translation made of the police indorsement upon his passport, and called his attention to the fact that he was to leave St. Petersburg only. He answered, however, and justly, that with a business established here, to be ordered to leave St. Petersburg was equivalent, in his case, to being ordered to leave Russia.

I do not understand that foreign Jews have been ordered to leave Russia. As I had the honor to state in my No. 205, "foreign Jews have been ordered to leave not only St. Petersburg, but Moscow and some other large towns, where they have hitherto been permitted to reside." These cities, it will be recollected, are under martial law, as I had the honor to report in my No. 94, of April 23, 1879, and the harsh measures of the expulsion of foreign Jews from them must be looked upon, I fear, as within the legal power and authority of the military governor.

With these explanations before you, should you still think that representations should be promptly made to the Imperial Government in regard to the case of Mr. Pinkos, it will give me pleasure to make them in the language of your dispatch.

I am, etc.,

WICKHAM HOFFMAN.

(Foreign Relations, 1880, p. 876.)

Mr. Hoffman to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 21, 1880.

SIR: Referring to my correspondence with the department upon the case of Henry Pinkos, an American Jew, ordered out of St. Petersburg, and especially to my No 208 upon this subject, I have the honor to inform you that the three months' delay granted to Pinkos having expired, he sold his little property at a sacrifice and prepared to leave Russia.

Having paid his passage and sent his baggage on board a vessel at Cronstadt, he was preparing to embark with his family when he was asked by the police for his passport. He showed them the indorsement ordering him to leave St. Petersburg, which he supposed to be sufficient. They told him that it was not and sent him and his family back to St. Petersburg to procure the necessary permission. The ship sailed without him, carrying off his baggage. The captain refused to return the passage money, as he had asked him if his passport was in order, and he found himself with his family penniless in St. Petersburg, and was indebted to private charity for the means to leave the country. This he was to have done yesterday.

I was upon the point of addressing M. de Giers a note, remonstrating against the harsh treatment of Pinkos, but have concluded to await your reply to my No. 18, in reference to this case, and to the general subject of the expulsion of foreign Jews from St. Petersburg and other large cities.

* * * * * * *

Mr. Pinkos's family complained bitterly of the unnecessary harshness with which they have been treated by the police at Cronstadt.

I am, sir, etc.,

WICKHAM HOFFMAN.

(Foreign Relations, 1880, p. 878.)

Mr. Evarts to Mr. Hoffman.

DEPARTMENT OF STATE,
Washington, August 10, 1880.

SIR: I have the honor to acknowledge the receipt of your dispatches of the 15th and 21st ultimos, in the case of Henry Pinkos, a citizen of the United States, of the Jewish faith, who has been ordered to quit St. Petersburg.

In view of the cruel situation in which Mr. Pinkos was placed by the action of the police at Cronstadt, I telegraphed you to-day as follows:

"Dispatch 20 received. Make every proper representation to the Government in Pinkos's case that will relieve his situation."

I am sure that His Majesty's Government will require no further reasons for the extension to Mr. Pinkos of such facilities as may be possible, the loss of property incident to the action taken by the authorities in his case, than a plain statement of facts.

I am sir, etc.,

WM. M. EVARTS.

(Foreign Relations, 1880, p. 879.)

Mr. Hoffman to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 11, 1880.

SIR: I have the honor to acknowledge the receipt of your cipher telegram of yesterday, which I deciphered as follows:

"Dispatch 20 received. Make every proper representation to the Government in Pinkos's case that may relieve his situation."

Mr. Pinkos left Russia with his family on the 20th of July. I did not see him personally, but I inferred from what his wife said that there had been no further police interference with him, but that he had made up his mind that Russia was no place for one of his creed, and that he proposed to establish himself in Liverpool, or return to the United States.

As the object of your telegraphic dispatch appears to have been to do everything in your power to relieve Pinkos's situation, and as he has left the country, there appears to be no necessity for my communicating with the Russian Government. I shall call Mr. Foster's attention, however, to your telegram immediately upon his return. This may be expected on or shortly before September 1.

I am, etc., WICKHAM HOFFMAN.

(Foreign Relations, 1880, p. 879.)

Mr. Evarts to Mr. Foster.

DEPARTMENT OF STATE,
Washington, September 4, 1880.

SIR: I have the honor to acknowledge the receipt of Mr. Hoffman's No. 23 of the 11th ultimo in the Pinkos case.

Notwithstanding the tenor of your No. 9 and of your note to the department of July 24 last, as to the inexpediency of presently appealing to the Government of the Czar in the sense of the instruction of June 28 last, touching the expulsion of citizens of the United States from Russia (or certain cities thereof) by reason of their religious convictions, the statements of Mr. Hoffman's No. 23 of August 11 last are such that the Government of the United States would seem indifferent to the cause of its citizens in Russia did it neglect to make immediate remonstrance as set forth in the said instructions of June 28. Mr. Hoffman's inference from the facts connected with Mr. Pinkos's departure from Russia is that Mr. Pinkos made up his mind that Russia "was no place for one of his creed."

If the meaning of this is that a citizen of the United States has been broken up in his business at St. Petersburg simply for the reason that he is a Jew rather than a believer in any other creed, then it is certainly time for this Government to express itself as set forth in the instruction above mentioned. It should be made clear to the Government of Russia that in view of this Government the religion professed by one of its citizens has no relation whatever to that citizen's right to the protection of the United States, and that in the eye of this Government an injury officially dealt to Mr. Pinkos at St. Petersburg on the sole ground that he is a Jew presents the same aspect that an injury officially done to a citizen of Russia in New York for the reason that he attends any particular church there would be to the view of His Majesty's Government.

It is evident that the losses incurred by the abandonment of his business in St. Petersburg will afford Mr. Pinkos ground for reclamation, if no other cause can be shown for the official breaking up of his said business than the religious views he entertained.

The direct application to have Mr. Pinkos indemnified, however, may be deferred until he shall make it appear what those losses were.

WM. M. EVARTS.

(Foreign Relations, 1880, p. 880.)

Mr. Foster to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, September 16, 1880.

SIR: Your several dispatches relating to the expulsion from St. Petersburg of Henry Pinkos, a citizen of the United States, of Jewish faith, had already been acknowledged by Mr. Hoffman before my arrival. Mr. Hoffman thought proper to defer action upon your No. 14 of June 28 last until further instructed after receipt of his dispatch No. 12 of the 20th of July or till my return.

Having examined your instructions and being informed of the facts of the case, I have felt no hesitation in communicating to Baron Jomini, the acting minister of foreign affairs, the protest of our Government against the expulsion of American citizens from Russia for no other reason than their adherence to the Jewish religion. It will be seen that in my note upon the subject, of which I inclose a copy herewith,

I have adopted the language of your dispatch and have only enlarged upon that dispatch in referring to the experience had in the United States in admitting Jews to the full and unrestricted rights of citizens, which I deemed warranted by the tenor of your dispatch No. 2 of April 14 last.

I am, sir, etc., JOHN W. FOSTER.

(Foreign Relations, 1880, p. 880.)

Mr. Foster to Baron Jomini.

LEGATION OF THE UNITED STATES,
St. Petersburg, September 2/14, 1880.

EXCELLENCY: The expulsion from this city of Henry Pinkos, a citizen of the United States, with the aggravating circumstances attending it, having been brought to the attention of my Government, I have been instructed by the Secretary of State to make known to your excellency the views of my Government thereon and to protest against the treatment which the said citizen has received.

Although the case has been heretofore brought to the attention of your excellency's department, it may be well to recall the facts attending it. In the month of April last, before I assumed charge of this legation, Henry Pinkos applied to the consul general of the United States in this capital for relief from an order which he had received from the police authorities to leave St. Petersburg, the only reason for his expulsion, as he understood it, being that he was a Jew. He was provided with a passport, fully authenticating his American citizenship. The consul general upon inquiry was informed that he was an industrious and quiet tradesman, and with a wife and one child had been residing in this city for some months. In the frequent interviews of the consul general with the police authorities no charges or intimations were ever made that Pinkos was other than a peaceful and law-abiding resident.

The only relief which the consul general and the chargé d'affaires of this legation could obtain from the police authorities was a suspension for a few days of the order of expulsion, until Mr. Hoffman was able to communicate with the foreign office and obtained, through Mr. de Giers, permission for Mr. Pinkos to remain for three months to enable him to close up his business. At the expiration of this period Pinkos, having sold his little property at a sacrifice, proceeded to obey the order, placed his baggage on board a vessel at Cronstadt, and when preparing to embark with his family he was asked by the police for his passport; whereupon he presented his American passport with which he had entered the country, with the police indorsement upon it ordering him to leave St. Petersburg, which he had supposed was sufficient. The police informed him that this was not sufficient and compelled him and his family to return to St. Petersburg. The captain of the vessel refused to refund him the passage money paid and sailed without him, carrying off his luggage. Having obtained from the authorities the permission required by the police, finding himself penniless, he was indebted to private charity for the means to leave the country, which he has done in compliance with the original order referred to above.

While the order was in its form merely an expulsion from St. Petersburg, Mr. Pinkos understood it to be an order to leave the Empire, in view of the fact that similar measures had been taken in Moscow and other cities, and of the announcement in the public press that foreign Jews were to be excluded from the country.

The Secretary of State instructs me to state to your excellency that in the presence of the fact that an American citizen has been compelled to leave Russia on no other ground than that he is the professor of a particular creed or the holder of certain religious views, it becomes the duty of the Government of the United States, which impartially seeks to protect all of its citizens of whatever origin or faith, solemnly, but with all respect to the Government of His Imperial Majesty, to protest. As this order of expulsion is understood to apply to all foreign Jews, in certain cities or localities, at least, of Russia, it is, of course, apparent that the same is not directed specially against the Government of which Mr. Pinkos is a citizen, and, indeed, the long standing amity which has united the interests of Russia with those of the Government of the United States would of itself forbid a remote suspicion that such might be the case. Notwithstanding this aspect of the matter, the United States could not fail to look upon the expulsion of one of its citizens from Russia on the simple ground of his religious ideas or convictions except as a grievance akin to that which Russia would doubtless find in the expulsion of one of her own subjects from the United States on the ground of his attachment to the faith of his fathers.

It having been intimated to the Secretary of State by this legation that the reason of this order may be found in the supposed implication of Jews in the plots formed against the life of His Imperial Majesty, the Emperor, the Secretary directs me to say that in so far as this may be true the Government of Russia has the entire sym-

pathy of the Government of the United States in all just preventive efforts, and if there exists any good evidence that Mr. Pinkos has been connected with any of these attempts the Government of the United States could not object to the expulsion on that ground. But neither the police authorities in the several communications which the members of the consulate general and this legation have had with them in their efforts to obtain relief for Mr. Pinkos, nor your excellency's department in the notes addressed to this legation on the subject, have ever intimated the existence of such a charge. Nor does the character of citizens of the United States of Jewish faith afford ground for the supposition that they would be likely to engage in conspiracies or plots against the established government of the country.

From the foundation of the United States as a Nation, they have been entitled to full and unrestricted privileges of citizens, and have shown themselves to be peaceable and law observing in their conduct, quiet and industrious in their habits, and are esteemed a valuable portion of the community; so that, in so far as the regulations for the expulsion of foreign Jews from Russia affects American citizens, whatever may be the conduct of their coreligionists of this or other countries, it is an unjust reflection upon American Jews as a class and a discrimination which can not be acquiesced in by my Government.

As, then, it does not appear that any criminal or improper conduct has been established against Mr. Pinkos, the Secretary confidently submits to His Imperial Majesty's Government whether, in view of the fact that Mr. Pinkos has been interrupted in his peaceful occupations and expelled from Russia on the sole grounds that his religious views are of one kind rather than another, he is not justly entitled to make reclamation for the damage and loss to which he has been subjected.

In thus presenting for consideration and appropriate action the views of my Government upon this important subject, I improve, etc.,

JOHN W. FOSTER.

(Foreign Relations, 1880, p. 881.)

Mr. Foster to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 20, 1880.

SIR: It becomes my unpleasant duty to report another case of the enforcement against an American citizen of the order prohibiting foreign Jews to reside in St. Petersburg. The first knowledge which I had of the fact was obtained through a letter from Mr. White, our minister in Berlin, a copy of which and of my reply thereto I herewith inclose.

From Mr. White's letter it will be seen that Mr. Marx Wilczynski, a citizen of the United States, having a passport issued in due form by the legation at Berlin, came to Russia on business as the agent of an American mercantile firm. On the 25th of last month he was ordered to leave St. Petersburg, the reason alleged for said order being that he was a Jew; and the following indorsement was placed upon his passport by the police authorities:

"The bearer of this passport, a North American citizen, a merchant and a Jew, Marx Wilczynski, is forbidden to reside in St. Petersburg.

"P. SAPCIENTRE.

"SEPTEMBER 13, 1880."

Mr. Wilczynski states that he had not time when this order was received to apply to this legation for advice and assistance, but having reached Berlin, he now applies to me, through the legation in that city, to have the order of expulsion rescinded, and asks me to inform him what rights, if any, American citizens of the Israelitish faith have in Russia.

Acting upon the tenor of your instructions in the recent case of Mr. Pinkos, I have addressed to Baron Jomini, acting minister of foreign affairs, a note, of which I inclose a copy, protesting against the action of the police, as a new infringement upon the rights of American citizens and of international comity, and as an interference with the reciprocal liberty of commerce guaranteed by treaty. After embodying the views expressed in your No. 27, of the 4th ultimo, as cumulative of my note in the Pinkos case, a copy of which I transmitted with my No. 37, of the 16th ultimo, I asked the minister that Mr. Wilczynski might be permitted to return to Russia to prosecute his business engagements, and that the police authorities of St. Petersburg be instructed not to molest him in his lawful pursuits.

I have received no answer as yet to my note to the minister in the case of Mr. Pinkos.

JOHN W. FOSTER.

(Foreign Relations, 1881, p. 990.)

Mr. Foster to Baron Jomini.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 7, 1880.

EXCELLENCY: I beg to bring to your excellency's attention the following facts, as they have been reported to me by the Legation of the United States at Berlin.

Mr. Marx Wilczynski, a citizen of the United States, is the agent of an American mercantile firm, and as such has much business in Russia. On his last visit to this country he was granted a passport by the American Legation at Berlin, with which he entered Russian territory, observing the proper requirements in regard to passports and encountered no difficulty until he reached St. Petersburg, where he was not permitted by the police authorities to remain, for the reason that he was a Jew; and an indorsement to that effect was placed upon his passport. He states that when this order was served upon him he did not have time to apply to this legation for advice or assistance, and he has taken the first opportunity after his expulsion to resort to the nearest diplomatic representative for interposition in his behalf. The interests of of the American mercantile firm which he represents require him to return to this country and this city. I inclose herewith the passport with which Mr. Wilczynski came to Russia, in order that your excellency may see the prohibitory order placed upon it by the police of this city. After due examination, I have to request that the passport may be returned to me.

It became my duty, in the note which I had the honor to address to your excellency on the 2d ultimo, in a case similar to the present one, to make known the views of my Government in regard to the expulsion of one of its citizens simply for the reason that he was a Jew rather than a believer in any other creed; and I must again respectfully but solemnly protest against this new infringement upon the rights of American citizens and of the comity which should exist between friendly nations.

Your excellency will not fail to notice that the action of the police authorities in the present case, as well as that of Mr. Pinkos, bears the grave aspect of an interference with the reciprocal liberty of commerce, which is guaranteed by solemn treaty stipulations, and the development of which is so ardently desired by both countries.

On account of this new instance, it is regarded as important that it should be made clear to your excellency's Government that in the view of the United States the religion professed by one of its citizens has no relation whatever to that citizen's right to the protection of the United States, and that in the eye of my Government an injury officially dealt to Mr. Wilczynski or Mr. Pinkos in St. Petersburg, on the sole ground that they are Jews, presents the same aspect that an injury officially done to a subject of Russia in New York, if he attends any particular church there, would to the view of His Majesty's Government.

I have therefore respectfully to request that Mr. Wilczynski may be freely permitted to return to Russia to prosecute his business engagements and that the police authorities of St. Petersburg be instructed not to molest him in his lawful pursuits. In view of the exigencies which may require his early return, I venture to express the hope that it may be found convenient with an early reply to this request.

It is gratifying to me to have this opportunity to reassure your excellency of my highest esteem and profound consideration.

JOHN W. FOSTER.

(Foreign Relations, 1881, p. 992.)

Mr. White to Mr. Foster.

LEGATION OF THE UNITED STATES,
Berlin, October 15, 1880.

MY DEAR COLLEAGUE: I take the liberty of sending you the inclosed passport of Mr. Wilczynski for the following reason:

Mr. Wilczynski is the agent of an American mercantile firm, and has much business in Russia. On his last visit to that country he took out the inclosed passport at this legation and had no trouble until he reached St. Petersburg, where he was ordered to leave the place on account of his being a Jew by birth. An indorsement to this effect was made by the authorities on the back of his passport, which practically neutralizes the value of that paper in Russia in protecting him as an American citizen.

Mr. Wilczynski states that he had not time when this occurred to apply for advice and assistance to the American legation, but has now addressed a letter to you and has requested me to forward his passport in order that, if you think proper, you may appeal to the proper authorities to have the order of expulsion rescinded, or at

any rate inform him what rights, if any, American citizens of the Israelitish faith have in Russia.

He has taken out another passport at this legation in case he should have to return suddenly to Russia, and therefore I would request that his old passport would be returned to this legation when you shall have finished with it.

I would also consider it a great favor if you would inform me, in view of other cases of the same nature, what reply I can safely make.

I remain, etc., ANDREW D. WHITE.

(Foreign Relations, 1881, p. 991.)

Mr. Foster to Mr. White.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 18, 1880.

MY DEAR COLLEAGUE: I am in receipt of your letter of the 15th instant, with which you inclose the passport of the American citizen Marx Wilczynski, with the indorsement of the police of St. Petersburg, forbidding him to reside here, and you inquire whether such order can be rescinded, and what rights American citizens of the Israelitish faith have in Russia.

The laws of Russia impose certain disabilities upon all Jews, among which is the prohibition against residence in St. Petersburg and certain other localities. In the past few years this prohibition has been repeatedly enforced against Americans of the Jewish faith, and acquiesced in by my predecessors. I was thoroughly convinced of the injustice of the prohibition, but did not feel warranted in reversing the precedent set by my predecessors without first referring the question to the department. Secretary Evarts has instructed me in a recent case to protest against the expulsion of Jewish-American citizens, and I have accordingly done so. I will repeat the protest whenever occasion requires and endeavor to obtain relief for citizens of the United States; but whether the Russian Government will be influenced by my protest and endeavors remains to be seen.

In Mr. Wilczynski's case I will send the minister of foreign affairs a note protesting against the action of the police authorities, and will ask that instructions be given to said authorities not to disturb him in his lawful pursuits in case he should return to this city.

It will not be safe, however, for Mr. Wilczynski to come to Russia until I shall have obtained an assurance from the minister that he can do so without interference on the part of the authorities. It may be some time before I can receive an answer from the minister, as the Emperor is now in Crimea, and Gen. Melikoff to whose department the subject pertains, is also temporarily absent from this city. In case Mr. W.'s business affairs should make it urgent that he have an early reply, you will please inform me, and I will then consider the propriety of calling in person at the foreign office and pressing an early solution of the matter.

The prohibition against Jewish residence in St. Petersburg was not strictly enforced until the late Nihilistic movement caused an order to be issued expelling all foreign Jews. I am satisfied that sooner or later the Russian Government must modify or repeal its illiberal laws respecting the Jews, and I will lose no proper opportunity to do what I can to hasten that event; but it is very doubtful whether it will consider the present an opportune time.

I am, etc., JOHN W. FOSTER.

(Foreign Relations, 1881, p. 991.)

Mr. Hay to Mr. Foster.

DEPARTMENT OF STATE,
Washington, October 22, 1880.

SIR: I have to acknowledge the receipt of your Nos. 37 and 41, of the respective dates of the 16th and 21st ultimo, reporting your action upon the recent instructions of the department in the special case of Henry Pinkos, and upon the general subject of the expulsion of American citizens from Russian cities on no other ground than profession of the Hebrew faith.

Your course appears to have been discreet, and it is hoped that you will press your representations to the successful establishment of the principle of religious toleration for our citizens peacefully residing or traveling abroad, which we as a Nation have such a deep interest in maintaining.

I am, etc., JOHN HAY, *Acting Secretary.*

(Foreign Relations, 1881, p. 993.)

Mr. Foster to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 30, 1880.

SIR: In my No. 48, of October 20 last, I reported to you the case of the American citizen of Jewish faith, Marx Wilczynski, who had been expelled from St. Petersburg because of his religion. In my No. 37, of September 16, I reported the execution of your instructions in the case of Henry Pinkos.

My notes on these two cases remained without any reply during the absence in Livadia of the Emperor and Mr. de Giers, the present head of the foreign office. Soon after their return, to wit, on the 10th instant, I called upon Mr. de Giers and directed his attention to my notes in the two cases of Messrs. Pinkos and Wilczynski, as presenting a question of much interest and importance to my Government, and regarding which it was highly desirable to reach a satisfactory settlement at as early a day as could be found convenient.

Mr. de Giers said that, owing to the press of business upon his return to the capital, he had not been able to examine the question with care. I thereupon suggested that if he could name a day when it would be agreeable for me to call again at the foreign office, he might have an opportunity in the meantime to read my notes, which contained a statement of your views, and he was kind enough to fix upon the 16th instant for the conference.

On the evening of the 13th instant, however, I received from him notes of reply in both cases, translations of which I inclose herewith. It will be seen that the answer to my protest, in the case of Pinkos, is in substance that all the acts of the Russian authorities complained of were in strict accordance with the existing laws. In Wilczynski's case the minister states that, in view of the intervention of the legation, he will be permitted to return to St. Petersburg and remain for six months. It is to be noted that this is the extreme length of time granted to any foreign resident upon his national passport.

Notwithstanding the definite character of these replies, I deemed it important to hold the conference with the minister agreed upon in my last visit, and I accordingly called at the foreign office at the hour designated on the 16th instant and was received by Mr. de Giers. I thanked him for the prompt answer which he had given to my notes in regard to Pinkos and Wilczynski, but I said that I had thought it desirable to have a personal interview (especially as the conclusions reached by his Government in neither case were entirely satisfactory), as in this way we might the better reach some understanding and avoid future trouble. His answer in the case of Pinkos was that all the acts complained of were in strict accordance with the laws. In my effort to investigate the question I found great difficulty in learning what the laws were in relation to the Jews. I could find no digest of them, but had been given a large volume, in the Russian language, of nearly 1,200 pages, which I was informed related exclusively to the laws and regulations governing the Jews in Russia. It appeared almost impossible for me to learn what the laws now existing were, and he could readily understand the difficulty a foreign Jewish merchant or visitor would have in understanding them. I recognized the considerate attention which the Russian Government had shown to all the requests of the legation regarding American Jews; but my Government objected to the discrimination on account of religion or race, which made the intervention of the legation necessary. It claimed for its citizens of the Jewish faith the same rights and protection extended to other American citizens, and insisted that there should be no distinction in applying the treaty guaranty of reciprocal liberty of commercial intercourse. If the Russian Government was not prepared to concede this, then, until the views of the two Governments could be harmonized, as new cases were constantly arising, it was desirable to know what the laws and regulations in regard to foreign Jews were, and whether some general rule or course of action could be indicated, so that American Jews might know what treatment they might expect.

The minister, Mr. de Giers, answered that the Russian Government had found the Jewish question a very vexatious and disagreeable one, both as to the internal relations and the treatment of foreign Jews. He then proceeded at some length to give a historical sketch of the question in its legal, political, and social aspects which, although quite interesting, I am constrained to omit on account of the space which this dispatch will necessarily occupy without it.

The experience which Russia had had with its Jewish subjects (who are almost exclusively Polish) had shown them to be a bad class of society largely engaged in smuggling and illegal commercial transactions. Of late years they have been active participants in revolutionary conspiracies and plots against the life of the Emperor and had shown a restless and disloyal inclination.

The minister said there was every disposition to enforce the laws as leniently as possible against American Jews, especially as they were few and usually of the better class, but owing to the large number of German and Austrian Jews on the border it was difficult to relax or repeal the laws.

Since the case of Pinkos had occurred the Government had been studying the question so as to adopt some general regulation which would more nearly meet the views of the United States, and that within the past few days it had been made the subject of a general ministerial conference.

The minister of the interior, Gen. Melikoff, to whose department the subject pertains, would endeavor to make a satisfactory settlement. He then explained to me that the treatment of Pinkos arose out of a peculiar circumstance of the time. The investigations following the explosions in the winter palace and attempt upon the Emperor's life showed that more than half of those implicated were Jews. This occasioned a strong demand for the rigorous enforcement of the old laws which had for some time been very loosely carried out. Pinkos became involved in the police surveillance without any intention on the part of the authorities to be wanting in consideration to American residents.

I asked Mr. de Giers if the same liberal permission would be extended to other American Jews coming to Russia, as had been indicated in his note regarding Wilczynski. If so, and I could advise my Government to that effect, it would avoid many annoyances and relieve the foreign office and legation from much trouble.

He replied that so far as he was concerned a like consideration would be shown in all meritorious cases, and at the expiration of six months even longer time might be given if desired. But until some general decision was made it would be difficult to give an assurance which would cover all cases. Responding to my inquiry he said the subject belonged specially to Gen. Melikoff's department, and there would be no impropriety in my conferring with him regarding it.

I alluded to the large number of Jews resident in St. Petersburg, estimated by persons who had given attention to the matter at 30,000, while the number registered by the authorities under the laws I had understood was less than 2,000. While I was gratified at this liberal action, I asked that no greater rigor should be shown toward Americans of the Jewish faith than to Russian Jews.

The minister answered that he was not accurately informed as to the statistics, but he had not thought the number of Jews was so large. This class of residents was constantly coming and going and the number varied greatly from year to year. But there could not exist any discrimination to the disadvantage of American citizens.

In the course of the conversation I stated that while the object of the interview was to obtain proper recognition of the rights of American Jews, my Government took a great interest in the amelioration of the condition of the Jewish race in other nations, and I was satisfied that it would be highly gratified at the statement of the minister that a commission was now considering the question of the modification in a liberal sense of the Russian laws regarding the Jews. The experience of the United States has amply shown the wisdom of removing all discriminations against them in the laws, and of placing their race upon an equal footing with all other citizens.

Mr. de Giers said he fully sympathized in theory with the view taken by my Government, as most in consonance with the spirit of the age. But in Russia the subject could not be treated as an abstract question. A long series of legislative acts and regulations, the strong prejudices of the masses of the Russian people, the bad character of great numbers of the Jewish race, and various other political and social circumstances had to be taken into consideration.

At the close of the interview, at my request, Mr. de Giers said he would have prepared for me a memorandum containing an abstract of the leading provisions of the laws and regulations affecting the Jews.

On the day following, the 17th instant, in a note addressed to Mr. de Giers, I acknowledged the receipt of his two notes of the 13th instant, in the cases of Pinkos and Wilczynski and stated that in view of the conference of the day previous, I would limit myself to forwarding copies of the correspondence to you, and await your further instructions.

Being desirous of impressing the views of our Government upon Gen. Loris Melikoff, the minister of the interior, to whose department has been intrusted the execution of most of the late reforms in administration and legislation, I called upon him on the 31st instant, and had an interview of some length, in the course of which I presented to him substantially the same views as developed in the conference with the minister of foreign affairs, both in relation to the position of our Government in claiming equal protection and privileges for its citizens in Russia, and protecting them against the discrimination made against American Jews, as also expressing the sympathy of the United States with the amelioration of the condition of the Jews in other countries.

Gen. Melikoff received me very cordially and replied that he was very glad to talk with me on the subject, and disposed to do everything in his power to meet my views. So far as special exemptions were concerned they would be readily made whenever requested by me, but that it was impossible at present to change the laws. If the American Jews were the only persons of this class they had to deal with, there would be no difficulty in conforming the laws as to foreign Jews to the views of the Government of the United States, as there was no fear that my country would send them nihilists, conspirators, or smugglers. But there was no end of trouble from the Jews of Germany and Austria and along the western frontier, which compelled the most rigorous measures. I could form no idea of the embarrassments which surrounded the Government in dealing with this question. The investigations showed that they were the most troublesome element and were found in all the conspiracies, and both the safety of the Government and due regard for public opinion made it impossible to change the laws. However much the minister sympathized with my desire to see some liberal modification of the laws, it must be borne in mind that there was a wide difference in the situation of the United States and Russia on this question. In the United States they were comparatively few in number, generally of the better class, and no fear was felt as to their machinations either from within or without; whereas Russia required not only to look closely after the 6,000,000 within its borders, but especially to protect itself from the worst class of Jews of Germany and Austria, who gave an immense deal of trouble. It was on account of the latter especially that it was necessary to maintain the regulation prohibiting foreign Jews to come to St. Petersburg

So far as concerned Jews who were bona fide American citizens (not disguised German Jews), he would assure me of the most liberal treatment, as he knew it was the desire of the Emperor to show all possible consideration to American citizens. If such came to St. Petersburg and encountered any trouble, if I would merely send him an unofficial note he would give them all the time I might ask for them to remain here to attend to their business. He expected to go to see the Emperor that day and would inform him that he had given me assurance that the American Jews should have this privilege, and he was sure his sovereign would approve his action, but this would be a special exception, as the existing laws must stand for the present for the protection of the Government.

I thanked the minister for the consideration which he proposed to show to this class of my countrymen and to the legation, and I assured him that I highly appreciated the friendly spirit manifested toward the United States. I was, however, sorry that the laws could not be entirely repealed, and such a course would be more in accordance with the views entertained by my Government, and it would be much more gratifying to it to see all the prohibitions against the Jews, native as well as foreign, abolished.

I have further to report that, acting upon the spirit of your instructions contained in your No. 2, of April 14 last, and with the object of impressing more fully upon the ministry the views of our Government on the general subject of reform in Jewish legislation, I have also had a conversation with the minister of worship, who listened with much interest to my presentation of the subject. He said that a commission was now engaged in studying the question of reform in these laws. He frankly recognized that the laws were not fully in accordance with the spirit of the age, and stated that it was the earnest desire of the Russian Government to conform its code on this subject more nearly to the civilization of this century, but it found itself surrounded by many difficulties to which other nations were not subjected, and that great prudence had to be exercised in the remedial measure taken.

I had waited some days to communicate to you the correspondence referred to and the result of my efforts to reach a satisfactory conclusion or solution of the question, in the hope that Mr. de Giers would be able to send me the promised memorandum regarding Jewish laws, as a knowledge of them is material to a full understanding of the questions at issue. I thought proper to again visit the foreign office on yesterday, and in recalling the subject to Mr. de Giers's attention I referred to my interview with the minister of the interior, Gen. Melikoff, as very pleasant and cordial, but said that that interview developed more fully that the Russian Government was disposed to grant what we desired only as a favor, when my Government asked it as a right. We objected to any discrimination being made against American citizens on account of religion, as our Government was bound to extend equal protection to all its citizens without distinction; and, while I highly appreciated the consideration which it was proposed to show to American citizens of the Jewish faith, I feared my Government would not be satisfied with the attitude which was assumed on the question as a matter of right.

The minister explained that all that could be done under existing circumstances was to except American Jews in the manner proposed from the rigorous operations of the laws. It was to be borne in mind that the United States is probably the most

advanced nation in the world in the application of liberal laws and principles, but that the same degree of liberality could not be applied to countries differently situated. And that even in the United States had it not been found somewhat difficult to make a universal application? He did not refer to the former treatment of the negroes, but to the existing state of affairs. Were not there laws and regulations which denied certain rights and privileges to a certain class of persons, and were we not seeking to exclude or regulate Chinese immigrants and deny to them the rights extended to other inhabitants? Besides, the Jews of the United States were of the better class of their race and there was not the same reason for their exclusion as in Russia. Most of the Jews of this country are Polish, who are recognized as among the worst class, and are bad, very bad, members of society, as a rule. They are constantly giving the Government trouble, prominent in conspiracies, disorders, smuggling, and deceit. For instance, in the troubles a few days ago in the university at Moscow more than half—yes, three-fourths—of those concerned in the trouble were Jewish students. (The minister alluded to the disorder which occurred at Moscow 10 days ago, when the students of the university organized a "college rebellion" owing to some dissatisfaction with certain professors, and by order of the governor general about 400 of them sent to prison for a short time.)

The Government, after generations of exclusion, had opened the universities and schools to the Jews, and, said the minister, this is the way they repay its liberality. And so it is almost always when disorders occur. There was every disposition to meet the wishes of the Government of the United States, but it should consider the condition of the country, and remember the difficulty Russia finds in abrogating its laws on this question.

I replied that I recognized the difficulty the Russian Government had in treating the subject so long as the laws existed, but would not the abrogation of the laws proscribing the Jews as such be the easiest way of solving the difficulty? By placing them on the same footing as other inhabitants they would not then be a proscribed race, and would be punishable as others for bad conduct. Such a course would be highly gratifying to the United States, and I hoped that this Government at no distant day would see its way clear to take such a step. I was aware of no law in the United States which limited the rights of its inhabitants on account of race or religion. So far as Chinese immigrants were concerned, it was true that trouble had arisen in certain localities, but this was not occasioned by any laws curtailing their rights, neither had the Government at any time denied or evaded its treaty obligations, but had met the difficulty by direct negotiations with the Chinese Government and with satisfactory results for both nations.

The minister said he regretted not having sent me the memorandum on the Jewish laws, but it had been found a more serious task than had been anticipated, and longer time had been asked to complete it, but that he hoped to be able to send it to me very soon.

Such are the results of my efforts to execute your instructions and to secure to American citizens of Jewish faith the same rights as are accorded to other citizens of the United States. I am sorry not to accompany this dispatch with a full statement of the Russian laws bearing on the question, but as soon as it is received from the foreign office I will forward it. You will find some reference to these laws in Mr. Hoffman's No. 109 of May 29, 1879, which will be of interest and pertinent to pending cases. My investigation has shown that the proscriptions of which we complain are based upon laws which were in force at the time of the execution of our treaty of commerce in 1832, and that as a matter of fact no greater privileges are granted to Russian than to American Jews similarly situated. Both are in a great measure under the ban of the laws. To the laws prohibiting Jews from residing in St. Petersburg there are various exceptions, but the Government reserves to itself the right of applying or withholding the exceptional privilege as it may think fit.

I have not been able to learn that any greater rigor in this respect has been shown to American Jews than to any of their coreligionists. As a general rule favorable consideration has been given to the representatives of this legation in their behalf. And while the Government declines to change the laws, I have been given to understand, as you will see from the report of my conference with the ministers of foreign affairs and that of the interior, that American Jews in whose behalf I intervene will be permitted to visit and remain in St. Petersburg a reasonable time to pursue their business avocations. I have already referred to the fact that under Russian law no foreigner can reside in this country more than six months upon his national passport, as after that date he must obtain the consent of the Russian Government, which claims and exercises the right of refusing its consent at its will. Under the arrangement proposed as to American Jews the only distinction in fact between them and other American residents is that a special application in their case would have to be made through

legation, the object being, I infer, to have its indorsement of the legitimacy of their business as well as of their citizenship—a kind of guaranty of their good conduct, a matter which it might at times be difficult to give.

It will thus be seen that while the Russian Government declines to accept the views as set forth by you and denies that the treaty of 1832 concedes to American citizens of Jewish faith any other or greater privileges than those enjoyed by Russian subjects of the same race, it has manifested a friendly disposition toward American citizens in the application of the laws and virtually offers to suspend their operation toward all Jewish citizens of the United States who can establish the fact that they come to Russia on legitimate business.

I am, etc., JOHN W. FOSTER.

(Foreign Relations, 1881, p. 996.)

Mr. De Giers to Mr. Foster.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERIOR RELATIONS,
St. Petersburg, December 1, 1880.

SIR: The imperial ministry has not failed to take into serious consideration the contents of the note which you addressed to it on the 2d of September, on the subject of the expulsion from the Russian territory of Mr. Henry Pinkos, a citizen of the United States.

The ministry hopes that an accord in the appreciation of the affair in question will not fail to be established if the Government of the United States shall be satisfied that all the measures of which Mr. Pinkos complains are in perfect conformity with the Russian laws.

In fact it is in the virtue of the regulations which authorize the residence of foreign Israelites in Russia only upon certain conditions that Mr. Pinkos found himself included in a general measure which was applied to him without the police having to inquire into his conduct.

It is also in virtue of the regulations, of which he has no right to plead ignorance, and the application of which can equally give him no right to indemnity, that Mr. Pinkos, having resided six months in Russia, could not leave Cronstadt without being furnished with a passport from the proper authorities. You will please observe in fact, sir, that the above-named person was not reconducted to the frontier, or embarked with the aid of the imperial authorities—in a word, that he did not undergo the process of expulsion, to which he was liable.

The legation of the United States, having intervened in his favor, by its note of April 8 last, the Imperial Government hastened to comply with the request made in the same communication and to ameliorate the condition of Mr. Pinkos in the very manner the legation had indicated. A delay of three months was consequently accorded to Pinkos to liquidate his affairs, and he was permitted at the expiration of this term to leave Russia on the same conditions as every foreigner wishes to repass the frontier, nothing dispensing Pinkos from the obligations which the regulations prescribe on these occasions. On the contrary, the peculiar circumstances of his position and the terms which had been granted him by special favor to regulate all the conditions of his departure, should have induced him to inform himself of the legal formalities required by the circumstances.

Thus the proceeding which our authorities took toward Mr. Pinkos present themselves both in their principle and their execution not as exceptional measures, but as the legal consequences of general laws, the effects of which the individual above named has had to undergo.

It is evident, too, as the note of the 2d of September acknowledges, that the measures taken on this occasion were not marked by any spirit contrary to the consideration which the Imperial Government has always professed for the quality of an American citizen.

As regards the exceptional dispositions of which foreign Israelites have been the object in Russia, and which have been provoked by their presumed participation in revolutionary proceedings, it is certain that the measures of the administration toward the Israelites in question have never had an exceptional character. If the prescriptions which concern them are rigorously executed, this rigor has nothing special in it, but results simply from the increased vigilance occasioned by present circumstances, which has led the imperial authorities to discover irregularities in the legal position of many foreigners residing in Russia. It became the duty of the imperial adminis-

tration to see to the strict observance of the existing laws, availing itself for this purpose of the legal means in their hands.

It is in this way that Mr. Pinkos has felt the effect of the precautions taken in consequence of the proceedings of the social revolutionists, although the conduct of this foreigner happily sheltered him from the direct action of the measures adopted to secure the public order.

The imperial ministry has endeavored to show that Mr. Pinkos has not been the object of any proceeding which goes beyond the regular application of the existing laws. Convinced that in strict justice no irregularity can be imputed to our authorities, the ministry would consider itself so much the more fortunate if it can succeed in inducing the Government of the United States to share this conviction, inasmuch as the affair in question affects those relations which the Imperial Government desires to maintain, on all occasions, in their unvarying cordiality.

Receive, sir, etc.,

GIERS.

(Foreign Relations, 1881, p. 1002.)

Mr. Giers to Mr. Foster.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERIOR RELATIONS,
St. Petersburg, December 11, 1880.

SIR: In a note of October 7 last, you addressed yourself to the imperial ministry of foreign affairs, with a view to obtain for Mr. Wilczynski, a citizen of the United States of America, permission to return to Russia, where the interests of a commercial enterprise, of which he is agent, called him.

The imperial ministry of foreign affairs hastened to the ministry of the interior the aforementioned request.

A recent communication of the minister of the interior enables me to inform you that in view of the intervention of the legation of the United States Mr. Wilczynski is authorized to return to St. Petersburg, and to remain here six months. The competent authorities have been informed of the ministerial decision.

Returning to you the passport of the said Wilczynski, which accompanied the above-mentioned note of the legation of the United States, I profit by this occasion, etc.

GIERS.

(Foreign Relations, 1881, p. 1003.)

Mr. Foster to Mr. Giers.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 5, 1880.

EXCELLENCY: I have the honor to aknowedge the receipt of your two notes of the 1st instant, the one relating to the case of Henry Pinkos and the other to the case of Marx Wilczynski, both American citizens of the Jewish faith.

In view of the conference which I had with your excellency on those and kindred matters yesterday, I do not deem it necessary at present to make further reply to said notes than to say that I will forward copies thereof, as well as a report of the said conference, to the Secretary of State at Washington and await his instructions.

With the renewed, etc.,

JOHN W. FOSTER.

(Foreign Relations, 1881, p. 1004.)

Mr. Foster to Mr. White.

ST. PETERSBURG, *December 14, 1880.*

MY DEAR COLLEAGUE: On the 18th of October last I acknowledged receipt of your letter regarding Mr. Wilczynski's expulsion from St. Petersburg, and wrote you a second letter on the subject in October.

I now have the answer of the minister of foreign affairs to my application for Mr. Wilczynski's free return to St. Petersburg. He states that Mr. W. will be permitted

to return to this city and remain for six months, and that the authorities have been so notified. This is the extreme limit of time allowed by the laws of Russia to all foreigners, without distinction, entering with a passport of their nationality, at the expiration of which time they are required to obtain a Russian passport or police permission of residence if they wish to remain.

I return the passport which you sent me.

JOHN W. FOSTER.

(Foreign Relations, 1881, p. 1004.)

Mr. Foster to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 31, 1880.

SIR: At a late hour on yesterday afternoon I received your cablegram dated the 29th instant, as follows:

"Urge treaty obligations in the Wilczynski case. Further information awaited."

It will be seen by my dispatch No. 73, of yesterday, which was just completed when your cablegram arrived, that I have been giving attention to the case and have obtained for him permission to return to St. Petersburg and remain for the limit of time granted to all foreigners upon their national passports, but that the Russian Government declines to modify the existing laws prohibiting foreign Jews to reside in this city.

I inclose copies of the correspondence had with the legation at Berlin, which contains some additional facts relating to Mr. Wilczynski.

It appeared from the letter of Minister White, of October 15, inclosed with my No. 48, of October 20, that Mr. Wilczynski when ordered to leave St. Petersburg made no application to this legation for advice or assistance. He informed Minister White that he had addressed me a letter in regard to his case, but no such letter has been received. He has not again appeared at the legation in Berlin to learn the result of his application for permission to return to St. Petersburg, and Mr. Everett writes that he is now probably in Russia. If so, he has never made his presence known to this legation, and it is to be presumed that he has not been molested.

I am, etc.,

JOHN W. FOSTER.

(Foreign Relations, 1881, p. 1004.)

Mr. Everett to Mr. Foster.

LEGATION OF THE UNITED STATES,
Berlin, December 18, 1880.

SIR: In Mr. White's absence I have the honor to acknowledge your letter of the 14th instant, returning Mr. Wilczynski's passport and stating he would be allowed to stay six months if he returned there. At the time his old passport was sent to you Mr. Wilczynski took out a new one, and said that he should not have any difficulty in returning to St. Petersburg and staying as long as he wished for business purposes, as he was personally known to high officials in some of the departments with which he had transacted business for some years. But his grievance was that he was expelled, as he understood, for being a Jew, and he wished to ascertain whether there was such a law against Jews, and whether the American legation could protect our citizens against it.

I have been informed by one of the Russian secretaries of the legation here that there is no law in St. Petersburg expelling Jews merely because they are Jews; but that probably this gentleman had failed to comply with some regulations in his business transactions, or had perhaps associated with some of the suspected characters in the city, or was one of the Polish refugees, who it appears are an obnoxious class there.

Mr. Wilczynski has not called at this legation again, and it is probable that he is now in Russia, as he expressed his intention of returning there shortly.

With many thanks for the trouble you have taken in the matter,

I am, etc.,

H. SIDNEY EVERETT.

(Foreign Relations, 1881, p. 1005.)

Mr. Foster to Mr. Evarts.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 31, 1880.

SIR: In my No. 73 of yesterday I have given the result of my efforts to obtain a modification of the laws of Russia in regard to foreign Jews, so as to exempt American Jews from the prohibition against residence in St. Petersburg and other cities of the Empire. As a supplement to that dispatch, it may be of interest to have some information as to the conditions and treatment of the Russian subjects of the Jewish faith.

From early times there have existed laws prohibiting the entrance or residence of Jews in Russia, and while there were occasional exceptions to the laws, the prohibition was generally enforced with rigor up to the incorporation of Poland with the Empire. From that date it was sought to confine the Jews to the Polish Provinces. But the Jews in these Provinces furnished their full contingent, and, it is alleged by them, more than their ration in the Russian Army; and as it often happened that at the expiration of their term of service they were in different or distant parts of the Empire from their homes, upon their discharge they were permitted to live in the Provinces where discharged, because they were old soldiers, and in spite of the laws prohibiting the residence there of Jews. The presence of the greater part of this race in other districts of Russia than Poland is accounted for in this way, they being either discharged soldiers or their children.

But, in addition to these, a considerable number of Jews are found in the large cities and commercial towns, many of whom are authorized to become permanent residents under exceptions which have been made to the prohibitory laws. For instance, Jews possessing a certain mercantile standing are admitted as members of the first or commercial guild, and with the authorization of the law, engage in banking and mercantile pursuits. And these members of the guild are permitted to employ a certain number of Jewish clerks, servants, artisans, and other employees. So, also, exceptions are made in favor of members of the learned professions and graduates of the universities and other educational or scientific institutions. The latitude of constructions placed upon these exceptions depends very much upon the will of the local authorities, as also the strictness with which the prohibitory laws are enforced; so that in all cities of Russia the number of Jewish residents will be found more or less in excess of the police registry and greater than the strict interpretation of the law authorizes. For instance, persons who have given the subject close attention, as I stated to the minister of foreign affairs, estimate the number of Jewish residents in St. Petersburg at 30,000, while it is stated the number registered by the police authorities is 1,500. From the same source I learn that, while the Government does not recognize their legal existence, nine synagogues in this city are known to the authorities, and that there are other private places of worship; and that, while only one Hebrew school is registered by the police, there are between 3,000 and 4,000 children in unauthorized Jewish schools of this capital. As another indication of the extent of Jewish influence, it is worthy of note that one or more Jewish editors or writers are said to be employed on the leading newspapers of St. Petersburg and Moscow almost without exception. It is claimed that Jews of wealth, of established professions or occupations, or of good social standing or influence, have little difficulty in securing express or tacit exemption from the laws.

These facts indicate that the laws proscribing the Jewish race are not enforced with great strictness, and intelligent Jewish residents of this city, native Russian subjects, who are laboring for the amelioration of the condition of their brethren, recognize the great advance which has been made during the present reign in the liberal construction which is placed upon the laws, in the exceptions which have been made tending to relax their vigor, and in the increased privileges which have been granted, such as admission to the universities, the practice of professions and avocations, and holding of government office, denied to them a generation ago. At the same time the proscription laws remain and the Government reserves to itself the right to enforce them with strictness or relax them at its will.

It is to be noted that intelligent Russian Jews repel the charge that their race in this country have manifested a spirit of lawlessness or hostility to the established Government, and they deny that a greater proportion of Jews than of other classes have been implicated in the conspiracies or attempts upon the life of the Emperor, and in confirmation of their denial they point to the fact that of the 16 persons who were arraigned last month in the state trials of the nihilists only I was a Jew.

I am, etc.,

(Foreign Relations, 1881, p. 1005.) JOHN W. FOSTER.

Mr. Evarts to Mr. Foster.

DEPARTMENT OF STATE,
Washington, March 3, 1881.

SIR: Your several dispatches, numbered 73, 74, and 75, of the 30th and 31st of December, in relation to the treatment of American Jews in Russia have been received and I have the pleasure of commending your zealous presentation of the cases of Pinkos and Wilczynski, and of the general questions involved. The assurances you have received as to the liberal treatment hereafter to be accorded, as an act of comity and courtesy by the military authorities to American citizens visiting Russia are fully appreciated.

I have observed, however, that in some of your conversations and writings with the foreign office you give prominence to the natural American sympathy with oppressed Jews elsewhere as a motive for our solicitude as to the treatment of Jews in Russia. Such solicitude might very properly exist; but in your presentation of the facts you should be careful to impress that we ask treaty treatment for our aggrieved citizens not because they are Jews, but because they are Americans. Russia's treatment of her own Jews or of foreign Jews resorting thither may in determinate cases attract the sympathy of the American people, but the aim of the Government of the United States is the specific one of protecting its own citizens. If the hardships to which Russian and foreign Jews are subjected involves our own citizens, we think we have just grounds for remonstrance and expectancy of better treatment.

This Government does not know or inquire the religion of the American citizens it protects. It can not take cognizance of the methods by which the Russian authorities may arrive at the conclusion or conjecture that any given American citizen professes the Jewish faith. The discussion of the recent cases has not as yet developed any judicial procedure whereby an American citizen, otherwise unoffending against the laws, is to be convicted of Judaism, if that be an offense under Russian law; and we are indisposed to regard it as a maintainable point that a religious belief is, or can be, a military offense, to be dealt with under the arbitrary methods incident to the existence of a "state of siege."

This Government is not unmindful of the difficulties under which, as alleged, the Russian Government labors in dealing with those of her subjects whom she may deem disaffected; but the reasons adduced and the methods adopted against them should have no application to American citizens sojourning peacefully for business or pleasure, in Russia, for they are not to be charged with abstract political disaffection to a government to which they owe no allegiance; and, if charged with the commission of unlawful acts they should have guilt explicitly imputed and proven. In the latter case the religion of the accused can not be admitted as proof or presumption of guilt or of innocence.

It is not the desire of this Government to embarrass that of Russia by insistence upon these points with any degree of harshness when the disposition reported in your dispatches is so conciliatory and the treatment offered may effectively operate to remove or prevent future causes of complaint based upon the ill-treatment of American citizens alleged to be Jews. It is most desirable, however, that you should not pretermit your efforts to bring the matter to such a stage as will insure for peaceful and law-abiding American citizens in Russia like treaty rights and personal freedom of creed as Russians enjoy in the United States.

WM. M. EVARTS.

(Foreign Relations, 1881, p. 1007.)

Mr. Foster to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, March 25, 1881.

SIR: In acknowledging the receipt of Department No. 55 of the 3d instant, I desire to express my thanks for the kindly commendation of my presentation of the cases of Pinkos and Wilczynski, and of the general question of the treatment of the Jews in Russia.

I make careful note of the desire manifested by the late honorable Secretary of State to appeal strongly to the treaty guarantee of personal freedom to American citizens sojourning peaceably, for business or pleasure, in Russia, without regard to their religious belief. I have constantly made this appeal to the Russian authorities. But it will be noted in my No. 73, of December 30, that I called attention to the fact that

the Russian Government denied that the treaty of 1832 secures to American citizens of the Jewish faith sojourning in Russia any other or greater privileges than those enjoyed in this Empire by Russian subjects of the same faith. From the concluding sentence of Department No. 55, it would seem that the late Secretary's construction of the treaty was that American citizens in Russia were entitled to the same rights and personal freedom as are extended to Russian subjects sojourning in the United States. This interpretation has never as yet been presented to the Russian Government, nor has the treaty been so considered by my predecessors. If that view is to be insisted upon, I will thank you for specific instructions regarding this point. As stated in my No. 73, the laws imposing disabilities upon Jews, both foreign and native, antedate the treaty of 1832, and the minister of foreign affairs claims that said treaty does not exempt American Jews coming here from their operation.

I have strongly insisted that the passport of his Government should protect every peaceable American citizen coming to Russia, and that it is not proper to institute inquiry as to the religious belief of such citizen. The department is correct in the supposition indicated, that no American citizen has been convicted of Judaism by "judicial procedure." But it is to be borne in mind that in Russia it is not necessary that a judicial procedure should take place, or even the "military state of siege" exist before a person undergoes sentence of the law. The laws and regulations in question are usually intrusted to the police authorities, and it is sufficient for them to be satisfied in their own minds that the individual comes within the prohibitions to have them enforced.

I shall not fail to continue to press the subject upon the Russian Government at every proper opportunity.

I am, etc., JOHN W. FOSTER.

(Foreign Relations, 1881, p. 1012.)

Mr. Foster to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, March 24, 1881.

SIR: A disgraceful series of disorders have occurred during the past month in the southwestern Provinces of Russia, directed against the Jewish residents, resulting in the loss of a number of lives and the destruction of an enormous amount of property. The scenes of these riots have been at and in the vicinity of Elizabethgrad and Kief, with less serious demonstrations at Odessa and other places. The participants have been almost exclusively of the lowest and most ignorant classes in the towns and cities, joined by the peasants, and the demonstrations in the two localities first named appear to have been so powerful that for days the authorities were paralyzed and the rioters were able to give full sway to their work of bigotry and destruction. In Kief, a city of over 100,000 inhabitants, with a large Jewish population, the work was so thorough, it is stated, that not a single Jewish house escaped, the inmates being driven out, beaten and stoned, and some of them killed, and the contents plundered or thrown into the streets. The damage there is estimated at several millions of roubles, and business has been seriously affected thereby; many commercial houses have suspended payment, other bankruptcies are feared, and the prices of provisions and articles of prime necessity have temporarily risen greatly in price. Massacres and destruction of property have become so threatening in other localities, where no actual outbreaks have taken place, that the Jews in large numbers have fled from their homes and taken refuge across the frontier in Austria, or in Moscow where the military force is sufficient to guarantee safety. In some instances the railroad officials have refused to run the trains by which the Jews were seeking to escape, for fear of attack from the infuriated mobs debauched with liquor and plunder.

Indiscriminate pillage became so much feared that Christians chalked their houses with crosses or exhibited holy images with lighted lamps before them to save themselves from the fury of the rabble. The acts which have been committed are more worthy of the Dark Ages than of the present century.

The authorities were slow to realize the extent of the danger, but when once awakened to its widespread and deep-seated character they have manifested a commendable zeal in suppressing the riots and in arresting and punishing the offenders. National troops have been freely used, sending them to the most threatened districts, and in some places, as at Odessa, they have promptly intervened with force to put down the riots.

Various causes have been assigned for these outbreaks additional to the prevailing bigotry and religious hatred of the lower classes toward the Jews. The country has no

been prosperous for sometime past; taxes have been heavy and exacted with severity; the depreciated paper currency has increased the cost of all commodities; the winter has been one of privation and suffering, and with many families indebtedness has been the rule annually. The Jews, being the money changers, traders, and speculators, have profited by this state of affairs, and the poorer classes felt that undue advantage has been taken of their misfortunes. Following the long fast so faithfully observed in the Russian national church, which was broken by holy week and its usual excesses in drinking, it has been easy to work upon the passions and prejudices of the hungry and ignorant. It is asserted also that the nihilist societies have profited by the situation to incite and encourage the peasants and lower classes in the towns and cities in order to increase the embarrassment of the Government, but the charge is probably conjectural and not based on very tangible facts. Certain it is, however, that the disorders have developed a state of discontent and lawlessness in the country that is by no means agreeable to the Government. It is believed that the Emperor has no sympathy with the spirit manifested against the Jews, and in addition to the active use of the imperial army to put down the riots, he has given orders to have an investigation made of the causes which have occasioned the disturbances. I have in previous dispatches referred to the proscriptive laws and disabilities imposed upon the Jews in Russia. If these events lead to a serious consideration of the wisdom of abolishing all the Jewish disabilities and of placing Russian legislation on this subject alongside that of other enlightened nations, the loss of life and property will not have been in vain.

It may not be without interest to mention that these disturbances and the Russian laws affecting foreign Jews have twice during the past week been the subject of discussion in the British Parliament. As reference was made in that discussion to the action of our Government and this legation regarding the Russian laws prohibiting foreign Jews to reside in St. Petersburg, I send you herewith that portion of the parliamentary report. It will be noticed that two questions were presented to the House of Commons: First, as to the propriety of the British Government making representations to that of Russia with regard to the atrocities committed upon the Jewish population in southern Russia, and, second, as to the action of the British Government on account of the expulsion from St. Petersburg of a highly respected London merchant having a British passport on the ground that he was a Jew. To the first question the under secretary for foreign affairs indicated that his Government was reluctant to make any representations in regard to the persecutions, and, as to the second subject, a protest has been made against the expulsion of the British subject, but without avail.

This discussion in Parliament has occasioned an editorial in the St. Petersburg Journal, the semiofficial organ of the Russian foreign office, of which I send you a translation. This article asserts that the disturbances being of a purely domestic character, the British Cabinet would have no more right to address the Russian Government representations thereon than the latter would have to address Lord Granville on account of the agrarian crimes in Ireland. In reference to the expulsion it maintains that if made according to the Russian law a protest was not proper; and, on the other hand, if in violation of that law a protest was unnecessary, because the above would have been corrected.

In this connection I have to report that no new case has arisen of the enforcement against American citizens of the law in question.

JOHN W. FOSTER.

(Foreign Relations, 1881, p. 1019.)

SKETCH OF THE LAWS OF RUSSIA RELATIVE TO FOREIGN JEWS.

Israelites in general are in Russia subject to a special legislation.

There is found in the Code of Laws a series of provisions in the proper place, spread over many chapters, and divers published regulations on commerce, industry, and the trades, devoting to them special clauses.

Foreign Israelites do not escape this legislation, which defines the laws applied to them relative to their admission into the territory of the Empire and to their sojourn in Russia.

The localities, the limits of which are accorded to Israelites subjects of the Empire, in order to sojourn in a permanent manner, are as follows:

The Governments (or Provinces) of Bessarabia, Vilna, Vitebsk, Volhynia, Grodno, Ekaterinoslav, Taurida, Kershow, Tchernigof, Kowno, Minsk, Mohilef, Poltava, Podolia, and Kief, with the exception of the city of Kief, but upon the observance of the following rules: In the Governments of Vitebsk and Mohilef the Israelites have the

right to reside in the inhabited localities, in virtue of proper tickets of sojourn which are given to them for this purpose, without, nevertheless, having the right to definitely establish themselves there in the quality of fixed inhabitants. With respect to the city of Nicolaief, they have a right to choose a domicile there and to acquire real estate, in conformity to the special provisions of the regulations of commerce. Second. Regarding the western Governments adjoining the frontier and Bessarabia the Israelites are not authorized to establish themselves within a distance of 50 versts from the frontier of the State. Along the western frontier of the State the Israelites guilty of contraband are, in addition to the other penalties, condemned to vacate the above-cited limits. (See arts. 12 and 23 of the regulations on passports, sequel to the Code of Laws, ed. of 1876.)

A general statute law that foreign Israelites are not authorized to immigrate to Russia, nor to receive Russian naturalization. (See art. 992 of the regulations on social conditions, Code of Laws, Vol. IX, ed. 1876.)

Nevertheless, article 530 of the regulations on passports (Code of Laws, ed. 1857), in admitting certain exceptions to the preceding laws, particularizes who are those among foreign Israelites who are authorized to establish themselves within the limits of the localities where the right of domicile is accorded to all Jews in general.

1. Those whom the Imperial Government invites to come to Russia to exercise the functions of rabbis.

2. Those who come to Russia with the object of creating manufactories and workshops (with the exception of distillers), and who can show a capital for this purpose of at least 15,000 rubles. The individuals at their entry into Russia must engage, in writing, to create said establishments within a period of three years. In case where they shall be found not to have complied with the terms of their engagement they shall be expelled from the Empire. On the contrary, in case they shall have fulfilled it they have the right to become Russian subjects and shall select a legal status.

Artisans called to Russia by the Israelite manufacturers to engage in manufacturing labor in their factories. These artisans shall not be permitted to enter Russia except upon presentation (*a*) of a passport in order (2) of a certificate from the imperial legation or consulate in Russia certifying to their condition, the character of their former occupations, the trade which they follow, and showing that they have been really called to Russia, by whom, and with what object. After a sojourn of five years in the factories, and upon presentation of a certificate from their employers and the local authorities attesting to their skill and irreproachable conduct, they shall be permitted to establish themselves permanently in the localities of domicile acquired for Israelites and to become Russian subjects.

Foreign Israelites, arriving in the localities where the fixed sojourn is authorized for all Israelites in general, shall be put in possession of passports, in which it shall be stated that they are only of value within the limits of the localities above mentioned. (See art. 8 and the annexes to art. 486, remark 2, of the regulations on passports, sequel to Code of Laws, ed. 1876.)

The local authorities are required to watch rigorous that foreign Israelites do not reside under the names of Christians in the localities where their sojourn is prohibited. The individuals discovered to be in this situation will be immediately expelled from Russia. (See art. 531 of the regulations on passports, etc.)

Foreign Israelites, and especially those who are agents of large commercial houses abroad, are permitted to visit the great commercial and manufacturing centers of Russia, and to reside there a period of time, the fixing of which is submitted to the proper authority.

It pertains to the department of the interior to definitely decide on the petitions presented for this object by the said Israelites. Nevertheless, the imperial legations and consulates may, without previous authorization of the department of the interior, deliver to bankers and chiefs of important commercial houses abroad passports to enter Russia and visé these passports, reserving notification to the department of the interior of the delivery or visé of passport to each one of the individuals. (See art. 2 of the annexes to art. 486 of the regulations on passports, etc.)

Israelites, foreign subjects known for their social position and large operations or commercial enterprises, are permitted, as a result of a special understanding in each case between the ministers of finance and of the interior and of foreign affairs, to establish a business within the limits of the Empire, and to open banking offices by providing themselves, nevertheless, with certificates of merchants of the first guild. They are likewise authorized to establish manufactories and acquire and lease real estate freely upon the basis of the provisions decreed by the regulations on social conditions.

Foreign Israelites whose high social position and commercial operations are of public notoriety, and who come to Russia with the object of purchasing products of

the Empire and exporting them abroad, can also, as a result of special understanding in each case between the ministers of finance, of the interior, and of foreign affairs, obtain certificates of merchants of the first guild. (See pt. 5 of the remark to the third annex to art. 128 of the regulations on commerce, ed. 1876, with a complement: Decision of the committee of ministers, Dec. 26, 1877.)

Israelites who may acquire by inheritance real estate situated beyond the localities where their sojourn is authorized, are required to sell it within a period of six months. This law applies also to foreign Israelites who may acquire real estate in Russia by right of inheritance. (See art. 960 on the regulations of social conditions, Code of Laws, ed. 1876.)

The following provisions have been decreed for the Israelite subjects of the Empire and are applicable to foreign Israelite subjects in so far only as the latter are found to have satisfied the requirements of the above-cited laws.

Merchants of the first guild inscribed upon the general basis in the first guild of the cities may go there with the members of their families whose names are found upon the guild certificates.

Israelite merchants who, in virtue of the preceding provisions, remove to the cities of the Empire situated beyond the limits of the localities of their authorized domicile, are permitted to bring with them clerks and servants, likewise Israelites, in limited number, by observing the follwing rules: First. Israelite merchants who remove to one of the two capitals, St. Petersburg or Moscow, are required to state in a special petition presented to them by the governor general or the prefect of the place, the number of clerks or servants which they judge indispensable to bring with them to said capitals, and upon what consideration this number is based. The granting of these petitions is left to the judgment of the governor general and the prefect above cited. Second. Israelite merchants who are inscribed in the guilds of other cities are authorized to bring with them, at the most, one clerk or one office boy and four servants of the two sexes of their race per family of Israelite merchant. (See annex 3 to art. 128 of the regulations on commerce, sequel to the Code of Laws, ed. 1876.)

Israelite merchants of the first guild, besides the general rights of commerce, which belong to them within the limits of the localities of their authorized sojourn, enjoy the following special rights:

First. They have the right to bring in bulk from the capitals and ports, in order to effect sales within the limits of the authorized districts, all kinds of merchandise, through the medium of commercial offices and local merchants, or by correspondence.

Second. They are permitted to visit twice a year the capitals and other cities for the purposes of making sales there of merchandise, on condition that the period of their sojourn does not exceed six months per year. In case there shall be an impediment or impossibility on account of sickness or some other cause to their going in person for the above-mentioned object to the interior of the Empire, they will be authorized to send in their stead clerks provided with the proper authorization, always computing the period cited. An Israelite clerk who has already visited the provinces twice in one year, by virtue of an authorization of a merchant, can not go there a third time in the course of the same year. It shall be the same if, having gone to said provinces once for one merchant, he held the authorization of another merchant. He shall, in this case, not be authorized to make more than a single journey in the course of this same year.

Third. Israelite merchants of the first guild are authorized to undertake enterprises in the government of the interior, but on the condition that they do not employ in any case Israelites as agents or superintendents.

Fourth. Israelite merchants of the first guild are permitted to carry on in the capitals and ports wholesale trade in the products of authorized Governments by means of Christian clerks or of merchants of the place or by direct correspondence with the manufacturers. But they are forbidden to make sale in person of said products in the capitals or ports of the Empire, or to open shops, under penalty of immediate expulsion and confiscation of merchandise.

Fifth. They shall not be authorized, neither personally nor by means of Christian agents, to sell merchandise which they may have imported from abroad outside of the limits of the Governments of their authorized fixed sojourn.

(Foreign Relations, 1881, p. 1023.)

Mr. Blaine to Mr. Foster.

[Extract.]

DEPARTMENT OF STATE,
Washington, July 29, 1881.

SIR:

* * * * * * *

From a careful examination of the cases of grievance heretofore reported by your legation, it appears that the action of the Russian authorities toward American citizens alleged to be Israelites and visiting Russia has been of two kinds.

First. Absolute prohibition of residence in St. Petersburg and in other cities of the Empire, on the ground that the Russian law permits no native Jews to reside there and that the treaty between Russia and the United States gives to our citizens in Russian jurisdiction no other rights or privileges than those accorded to native Russians. The case of Henry Pinkos may be taken as a type of this class.

Second. Permission of residence and commerce, conditionally on belonging to the first guild of Russian merchants and taking out a license. The case of Rosenstrauss is in point.

The apparent contradiction between these two classes of actions becomes more and more evident as the question is traced backward. The department has rarely had presented to it any subject of inquiry in which a connected understanding of the facts has proved more difficult. For every allegation, on the one hand, that native laws in force at the time the treaty of 1832 was signed prohibited or limited the sojourn of foreign Jews in the cities of Russia I find, on the other hand, special invitation to alien Hebrews of good repute to domicile themselves in Russia, to pursue their business calling under appropriate license, to establish factories there, and to purchase and lease real estate. Moreover, going back beyond 1832, the date of our treaty, I observe that the imperial ukases concerning the admission of foreigners into Russia are silent on all questions of faith, proper passports duly visèed being the essential requisite. And further back still, in the time of the Empress Catherine, I discover explicit tolerance of all foreign religions laid down as a fundamental policy of the Empire.

Before examining the issues directly before us it may not be out of place to give a brief review of these historical data.

The ukase of the Empress Catherine of February 22, 1784, although concerning only the establishment of commercial relations with the new possessions of Russia on the Black Sea, contains the following notable declaration:

"That Sebastopol, Kharson, and Theodocia be opened to all the nations friendly to our Empire for the advantage of their commerce with our faithful subjects; * * * that the said nations may come to these cities in all safety and freedom. * * * Each individual of such nation, whomsoever he may be, as long as he shall remain in the said cities by reason of his business or of his own pleasure shall enjoy the free exercise of his religion, according to the praiseworthy precepts handed down to us by the sovereigns, our predecessors, and which we have again received and confirmed, "that all the various nationalities established in Russia shall praise God, the All Powerful, each one after the worship and religion of his ancestors," * * * and we promise, upon our imperial word, to accord to all foreigners in these three cities the same advantages which they already enjoy in our capital and seaport, St. Petersburg, etc."

The full text of this ukase, which breathes a spirit of large and enlightened tolerance in advance of the policy of those days, is well worthy of perusal and may be consulted in vol. 4 of Marten's Recueil des Traites, first edition, Gottingen, 1795, pages 455–457.

The imperial ordinance of the Czar Alexander I of 13th August, 1807, decrees a rigid system of passports for foreigners entering Russia and is applicable to "all foreigners, of whatsoever nationality," but intimates no restriction on travel or sojourn in Russia by reason of race or faith. This ordinance was modified and amplified by the ukase of 25th February, 1817, but still without any manner of religious prescription or restriction.

From this time down to 1860 I can find no trace of the enforcement, especially against American citizens, of the restrictions against Jewish travel and residence which are stated to have existed when our treaty with Russia was signed. It is a significant circumstance that the acknowledged authorities on private international law, writing during this period upon the legislation of all Europe as affecting the rights of persons and aliens, make no reference to such disabilities. Even the painstaking Foelix is silent on this point, although devoting much space to the treatment and rights of aliens in Russia. I do not desire to be here understood as arguing that

the asserted disabilities did not exist at that time. The domestic history of the Russian Empire shows plainly the restrictions placed upon the native Hebrews, and especially those of Polish origin, the efforts to confine them to certain parts of the Empire, and the penalties sought to be imposed to deter them from mingling with the Christian subjects of the Czar. But the same history shows the gradual relaxation of these measures, until, in the capital itself, the native Israelite population is said to number some 30,000 souls, with their synagogues and sectarian schools, while a special ukase of the late Czar distinctly recognizes to foreign Hebrews every privilege of residence and trade in a certain guild which native Christian subjects possess.

The ukase of the Emperor Alexander II of 7th June, 1860, after premising that the need of commercial development and the principles of international reciprocity make it proper to concede "to foreigners dwelling in Russia the same rights as those which our subjects enjoy already in the principal countries of Europe," proceeds to permit all aliens to enter any of the trading guilds on the same footing as natives and to thereupon enjoy all the commercial privileges which these guilds confer upon native Russian traders, with the following qualification:

"*First remark.*—Foreign Hebrew subjects known by reason of their social position and the wide extent of their commercial operations, who come from foreign lands, may, after the established formalities—that is to say, upon a special authorization, issued in each case by the ministers of finance, of the interior, and of foreign affairs—trade in the Empire and establish banking houses therein, upon procuring the license of a merchant of the first guild. It is likewise permitted to these same Israelites to establish factories, to acquire and to lease real estate conformably to the prescriptions of the present ukase."

This provision, it will be observed, extends to the whole territory of the empire. If, as I understood the response of the Russian ministry in the case of Henry Pinkos, native Israelites are forbidden by law from residing or trading in the capital, then this ukase places all foreign Jews (whether belonging to treaty powers or not) on a more favored footing. But if native Hebrews, as a fact, are permitted to reside in St. Petersburg and engage in trade in other guilds than the so-called "first guild," there may then well be question whether such restriction to a particular guild in the case of an American Israelite is consonant with the express opinions of the treaty of 1832, article 1. This point was in fact raised in the case of Theodore Rosenstrauss at Kharkoff, which is narrated at length, with all the correspondence therein exchanged, in Mr. Jewell's dispatch No. 20, of December 15, 1873; but it does not seem to have been then exhaustively considered whether the complainant received, under the treaty, the like treatment with the native Hebrews of Kharkoff, or whether he was constrained to obey the ukase of 1860, which, as I have above remarked, is framed for general application to all aliens irrespective of treaty rights. It is not, however, my present purpose to reargue this old case, but simply to call attention to the fact that the Russian law may, and possibly does, modify and restrict treaty rights. The Rosenstrauss case was special in its nature, and concerned commercial privileges under a promulgated license law of the empire. It may be necessary, at some future time, to discuss the question it involves, but just now I am concerned with a different class of cases, namely, those of American citizens visiting Russia for private business or for pleasure and travel and duly provided with the passports of this Government authenticating their national character and their consequent right to all the specific guaranties of our treaty.

This brings me again to the cases of Pinkos and Wilczynski. It is unnecessary here to recapitulate the facts therein, as they are amply presented by the files of your legation and by the correspondence had with the Russian foreign office. It is sufficient to characterize them as instances of the notified expulsion from St. Petersburg, by the police or military authorities, of American citizens, not because of any alleged failure to comply with the ukase of 1860, or with the Russian commercial code, but simply on the allegation, unsupported by proof, that they professed the Israelitish faith, and that the law forbade the sojourn of native Israelites in the imperial capital. On this brief formulation of the case this Government believes that, under its treaty with Russia, and in view of its treatment of Russian subjects resorting under like circumstances to the United States, it has just ground for complaint and expectancy of better treatment from the Government of Russia.

The provisions of our treaty of 1832 with Russia, governing the commercial privileges of the citizens and subjects of the two countries, is as follows:

"ARTICLE I. There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation.

"The inhabitants of their respective states shall mutually have liberty to enter the ports, places, and rivers of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs; and they shall enjoy, to that effect, the same security

and protection as natives of the country wherein they reside in all parts whatsoever of the said territories, in order to attend to their affairs; and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside, on condition of submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

Article X confers specific personal rights reciprocally. In respect of this article an infringement alike of the letter and the spirit of the treaty is not only possible but probable, under the rigid interpretation of the Jewish laws, upon which Russia seems disposed to insist. Its stipulations concern the right to dispose of personal property owned by or falling to American citizens, who may receive and dispose of inheritances and have recourse to the courts in settlement of cases arising thereunder. It certainly could not be seriously claimed or justly admitted that an American Hebrew, coming within the provisions of this article, is to be treated as a candidate for commercial privileges and required to take out a license as a trader of the first guild, subject to the approval of his application by the ministries of finance, interior, and foreign affairs. A personal right, not a mercantile privilege, is conferred. To bar an American citizen whose rights may be so concerned, from personal appearance in protection of those rights, would be a distinct departure from the engagement of the treaty, while to suppose that his case might come under the discretional authority of the police or military power, which might refuse his sojourn in any part of the Empire, or allow it under conditions pending their good will, is to suppose a submission of the guarantees of the treaty to a tribunal never contemplated by its framers.

Upon a case arising, this Government would hold that the treaty conferred specific rights on all American citizens in the matter of the disposition of their personal property, irrespective of any condition save those which the article itself expressly creates; that their actual presence when necessary to protect or assert their interests, is absolutely guaranteed whenever and for whatever time it may be needful; and that this international engagement supersedes any municipal rule or regulation which might interfere with the free action of such individuals.

It would be, in the judgment of this Government, absolutely inadmissible that a domestic law restraining native Hebrews from residence in certain parts of the Empire might operate to hinder an American citizen, whether alleged or known to profess the Hebrew faith, from disposing of his property or taking possession thereof for himself (subject only to the laws of alien inheritance) or being heard in person by the courts, which under Russian law may be called upon to decide matters to which he is necessarily a party. The case would clearly be one in which the obligation of a treaty is supreme and where the local law must yield. These questions of the conflict of local law and international treaty stipulations are among the most common which have engaged the attention of publicists, and it is their concurrent judgment that where a treaty creates a privilege for aliens in express terms it can not be limited by the operations of domestic law without a serious breach of the good faith which governs the intercourse of nations. So long as such a conventional engagement in favor of the citizens in another State exists, the law governing natives in like cases is manifestly inapplicable.

I need hardly enlarge on the point that the Government of the United States concludes its treaties with foreign States for the equal protection of all classes of American citizens. It can make absolutely no discrimination between them, whatever be their origin or creed. So that they abide by the laws at home or abroad it must give them due protection and expect like protection for them. Any unfriendly or discriminatory act against them on the part of a foreign power with which we are at peace would call for our earnest remonstrance, whether a treaty existed or not. The friendliness of our relations with foreign nations is emphasized by the treaties we have concluded with them. We have been moved to enter into international compacts by considerations of mutual benefit and reciprocity, by the same considerations, in short, which have animated the Russian Government from the time of the noble and tolerant declarations of the Empress Catherine in 1784 to those of the ukase of 1860. We have looked to the spirit rather than to the letter of those engagements, and believe that they should be interpreted in the broadest way; and it is therefore a source of unfeigned regret to us when a Government, to which we are allied by so many historical ties as to that of Russia, shows a disposition in its dealings with us to take advantage of technicalities, to appeal to the rigid letter and not to the reciprocal motive of its international engagements in justification of the expulsion from its territories of peaceable American citizens resorting thither under the good faith of treaties and accused of no wrongdoing or of no violation of the commercial code of the land, but of the simple adherence to the faith of their fathers.

That the two American citizens whose unfortunate cases have brought about this discussion were not definitely expelled from St. Petersburg, but were allotted by

the military authorities a brief time to arrange their private affairs, said to coincide with the usual time during which any foreigner may remain in the Empire under his original passport, does not alter the matter as it appears to our eyes. The motive alleged remains the same, and the principle involved is one recognized neither by our fundamental laws nor by any of the conventions we have concluded with foreign States.

It must not be forgotten that this issue, of the banishment of our citizens from a friendly territory by reason of their alleged religion, is a new one in our international relations. From the time when the treaty of 1832 was signed down to within a very recent period there has been nothing in our relations with Russia to lead to a supposition that our flag did not carry with it equal protection to every American within the dominions of the Empire. Even in questions of citizenship affecting the interests of naturalized citizens of Russian origin the good disposition of the Imperial Government has been on several occasions shown in a most exemplary manner, and I am sure the actual counselors of His Majesty can not but contemplate with satisfaction the near approach made in 1874 to the arrangement of negotiations for a treaty of naturalization between the two countries. On that occasion it will be seen by consulting Mr. Jewell's No. 62 of April 22, 1874, the only remaining obstacle lay in the statutes of the Empire touching the conferment and the loss of citizenship, of which the examining commission and the consultative council of state recommended the modification in a sense compatible with the modern usage of nations.

I can readily conceive that statutes bristling with difficulties remain unrepealed in the volumes of the law of Russia as well as of other nations. Even we ourselves have our obsolete "blue laws," and their literal enforcement, if such a thing were possible, might to-day subject a Russian of free-thinking proclivities, in Maryland or Delaware, to the penalty of having has tongue bored through with a red-hot iron for blasphemy. Happily the spirit of progress is of higher authority than the letter of outworn laws, and statutory enactments are not so inelastic but that they relax and change with the general advancement of peoples in the path of tolerance.

The simple fact that thousands of Israelites to-day pursue their callings unmolested in St. Petersburg, under the shadow of ancient proscriptive laws, is in itself an eloquent testimony to the spirit of progress. And so, too, in Spain, where the persecution and expulsion of Jews is one of the most notable and deplorable facts in history, and where the edicts of the earlier sovereigns remain unrepealed, we see to-day an offer of protection and assured right of domicile made to Israelites of every race.

I leave out of consideration in the present instruction the question whether the citizens or subjects of other nations are more or less favored than our own in this regard. I have not, however, failed to notice the statement made to you by Mr. de Giers, in one of your reported conversations with him, that German and Austrian Jews are subjected to the proscriptions in question, and that the implications therefrom that if the Governments of Germany and Austria do not complain, there is no reason why we should.

It is not for me to examine or conjecture the reciprocal motives of policy or of international convention which may govern in these instances. Neither have I failed to remark the seeming uncertainty with which the British Government has approached the case of the English Israelite, Mr. Lewisohn, who was recently required to quit St. Petersburg, notwithstanding that the personal guaranties of the Anglo-Russian treaty of January 12, 1859, in its eleventh, twelfth, and thirteenth articles, are more particular than in our own treaty, and were presumably, like our own stipulations, framed with the intent of securing impartial rights and protection in Russia. I am perfectly willing to rest my argument on the moral weight of our treaty of 1832, although, of course, not averse to availing myself of any support which may come from any other quarter to fortify what we conceive to have been our clear purpose in executing that instrument. And under no circumstances would I in the name of this Government be willing to accept a less measure of impartial privilege for a citizen of the United States visiting or sojourning in Russian territory than is assured to aliens in the like case by any stipulation with or usage toward any other nation on the part of Russia.

I had the honor in my letter of the 20th ultimo to Mr. Bartholomei to acquaint him with the general views of the President in relation to this matter.

I can not better bring this instruction to a close than by repeating and amplifying those views which the President so firmly holds, and which he so anxiously desires to have recognized and responded to by the Russian Government.

He conceives that the intention of the United States in negotiating the treaty of December 18, 1832, and the distinct and enlightened reciprocal engagements then entered into with the Government of Russia, gives us moral ground to expect careful attention to our opinions as to its rational interpretation in the broadest and most

impartial sense; that he would deeply regret, in view of the gratifying friendliness of the relations of the two countries which he is so desirous to maintain, to find that this large national sentiment fails to control the present issue, or that a narrow and rigid limitation of the construction possible to the treaty stipulation between the two countries is likely to be adhered to; and if, after a frank comparison of the views of the two Governments, in the most amicable spirit and with the most earnest desire to reach a mutually agreeable conclusion, the treaty stipulations between the United States and Russia are found insufficient to determine questions of nationality and tolerance of individual faith, or to secure to American citizens in Russia the treatment which Russians receive in the United States, it is simply due to the good relations of the two countries that the stipulations should be made sufficient in these regards; and we can look for no clearer evidence of the good will which Russia professes toward us than a frank declaration of her readiness to come to a distinct agreement with us on these points in an earnest and generous spirit.

I have observed that in your conferences on this subject heretofore with the minister of foreign affairs, as reported in your dispatches, you have on some occasions given discreet expression to the feelings of sympathy and gratification with which this Government and people regard any steps taken in foreign countries in the direction of a liberal tolerance analogous to that which forms the fundamental principle of our national existence. Such expressions were natural on your part and reflected a sentiment which we all feel. But in making the President's views known to the minister I desire that you will carefully subordinate such sentiments to the simple consideration of what is conscientiously believed to be due to our citizens in foreign lands. You will distinctly impress upon him that, regardful of the sovereignty of Russia, we do not submit any suggestions touching the laws and customs of the Empire except where those laws and customs conflict with and destroy the rights of American citizens as assured by treaty obligations.

You can further advise him that we can make no new treaty with Russia nor accept any construction of our existing treaty which shall discriminate against any class of American citizens on account of their religious faith.

I can not but feel assured that this earnest presentation of the views of this Government will accord with the sense of justice and equity of that of Russia and that the questions at issue will soon find their natural solution in harmony with the noble spirit of tolerance which pervaded the ukase of the Empress Catherine a century ago, and with the statesman-like declaration of the principle of reciprocity found in the late decree of the Czar Alexander II in 1860.

You may read this dispatch to the minister for foreign affairs, and should he desire a copy you will give it to him.

JAMES G. BLAINE.

(Foreign Relations, 1881, p. 1030.)

Mr. Hoffmann to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 29, 1881.

SIR: I have the honor to inform you that, having prepared a copy of your dispatch, No. 87, upon the subject of the United States Jews in Russia, I to-day called upon Mr. de Giers.

I told him the object of my visit and offered to read your dispatch. He requested me not to do so, as he was very much occupied, and several persons waiting to see him, but asked me to leave him a copy, which he promised to have carefully considered.

I said to him that your dispatch related to citizens of the United States alone; that you did not touch upon the question of Russian Jews; and that as regards citizens of the United States you placed yourself principally and strongly upon the treaty of 1832. That under the treaty every citizen of the United States, without distinction of creed, had the right to go where he pleased, and stay as long as pleased in the Empire. He replied that he regarded the words "on condition of their submitting to the laws and ordinances there prevailing" as qualifying this right, and subjecting American Israelites to the laws which govern Russian Israelites. I assured him that it appeared to me that those words referred rather to laws or morals and police "ordinances" in the ordinary acceptation of that term. I added, that in the case of Russian Jews very many exceptions were made to their laws (referring to the large number of Russian Jews permitted to reside in St. Petersburg contrary to the law). He admitted that there were many such exceptions, and added that exceptions were made and would be freely made in the case of foreign Jews also. I had only to apply in any particular

case, and he had no doubt an exception would be made; your dispatch should be carefully considered, and in a week or two he would answer it verbally or in writing as I preferred. He added that the answer would probably be the same as that given to the English.

The answer given to the English, I understood to be, that the treaty does not give an English Israelite the right to go anywhere, or stay any length of time in Russia, but that he is bound by the regulations which govern native Jews; but that in the case of Mr. Lewisohn an exception is made on the request of the British embassy, and he can return here if he desires to do so. I do not speak with certainty, but I learn in well-informed quarters that this is the decision.

I am, etc., WICKHAM HOFFMANN.

(Foreign Relations, 1881, p. 1036.)

Mr. Hoffmann to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 8, 1881.

SIR: Referring to your dispatch No. 87 and to my No. 150 in reply, I have the honor to inform you that I called yesterday upon Mr. de Giers in reference to the question of the United States Jews in Russia. Mr. de Giers stated that he had read your dispatch with interest; that the question had two sides—its legal and moral sides; that in reference to the former, he still maintained the view he had already intimated to me, viz, that in the treaty of 1832 the words "on condition of their submitting to the laws and ordinances there prevailing" were controlling, and subjected American Jews to the treatment of native Jews. He added that he had given an analogous answer to the representatives of other powers.

As regards the moral side of the question he, personally, would be glad to see important modifications made in the laws regulating the condition of Jews in Russia, but that they had brought much of the harshness of these laws upon themselves. A commission had, however, been appointed to examine and report upon the whole Jewish question, under the presidency of the minister of the interior; that the commission would meet this autumn, and that he had already transmitted your dispatch to that officer, to be submitted to the commission.

WICKHAM HOFFMANN.

(Foreign Relations, 1881, p. 1037.)

Mr. Foster to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 14, 1881.

SIR: After considerable delay I am at last enabled to send you herewith an abstract or sketch of the laws of Russia relative to foreign Jews. As I heretofore noted, the laws on this subject are contained in a voluminous mass of legislation, regulations, decisions of ministries, etc., many of which conflict with each other, and it has been found very difficult to know with accuracy what is the existing law applicable to a particular case. The accompanying abstract is believed to be * * * as full as I can make it without the employment of an experienced native attorney, and having in view some special question.

As introductory to a notice of the inclosed abstract, it is proper to state that from early times Jews were prohibited from coming to or settling in Russia; but, by means of the conquest of Poland, the Crimea, and certain other districts, a large number of Jews became incorporated as subjects of the Empire, and it was thus made necessary to so modify the ancient general prohibition as to allow Israelites who had become Russian subjects by annexation of territory to reside in the western and southwestern provinces named in the inclosed abstract. And up to the present no other part of the Empire has been opened to Jewish Russian subjects for unrestricted habitation, so that, as a rule, even Russian Jews are confined to the provinces cited; and the ancient law prohibiting the entrance into Russia of foreign Israelites is still in force, with the very limited exceptions cited in the accompanying sketch. These exceptions may be briefly stated as follows:

1. Certain foreign Jews may come into the governments or provinces of west and southwest Russia named, to wit: First, rabbis invited by the Russian Government

to exercise their profession; second, manufacturers with a capital of 15,000 rubles, by special arrangement; and, third, artisans brought by said manufacturers upon certain specific conditions.

II. All other parts of Russia are closed to foreign Israelites, with the limited exceptions of, first, the agents of large commercial houses abroad, who are permitted to visit, for a limited period, the great commercial and manufacturing centers of Russia, upon their petition to that effect, presented to the department of the interior, being granted; and, second, well-known bankers and chiefs of large commercial houses or enterprises coming to Russia to purchase and export native products may be admitted as merchants of the first guild, as the result of a special joint understanding with the ministers of the interior, and finance, and of foreign affairs; but, even after being admitted as members of the merchants' guild, they have only specified and restricted privileges.

It will thus be seen that Jewish citizens of the United States are virtually excluded from Russia, as few, if any, of them would be willing to comply with the requirements necessary for their admission under Russian laws. This code of Jewish regulations, of which some idea may be formed from the inclosed sketch, will appear somewhat curious and antiquated in our country of unrestricted commercial intercourse, and especially the limitations, not only of a business, but even of a domestic character, which are thrown around the Jewish bankers and merchants (to use the language of the law) "known for their high social position and large operations and commercial enterprises."

I also transmit herewith a memorandum showing the provisions bearing upon the question of the treaties of commerce existing between Russia and Great Britain, Austria, and France.

The other European nations have treaties similar to that of Great Britain, with the exception of Germany, which, singularly enough, has no treaty of commerce with Russia. A comparison with the treaty of commerce which the United States has with Russia will show that the only material variance is in the last paragraph of Article I of the British treaty (and a similar provision is found in the treaties of most of the European nations with Russia), wherein it is more explicitly provided that in the treaty with the United States that the privileges therein granted "in nowise affect the laws, decrees, and special regulations regarding commerce, industry, and the police in vigor in each of the two countries." The Austrian treaty is still more precise in adding to the foregoing reservation a recognition "that the restrictions established in the states of one of the high contracting parties shall be equally applicable to the subjects of the other belonging to the same confession." It may, therefore, be concluded that our treaty is fully as favorable to our citizens as that of any other nation with Russia.

As the case of the British subject Lewinsohn, now pending and the occasion of some inquiry in Parliament, has been heretofore referred to, I inclose a statement of the facts relating thereto, which is doubtless substantially correct. It may be noted that while Lewinsohn was refused permission to revisit St. Petersburg, the American citizen, Mr. Wilczynski, who was expelled about the same time, was, upon application of this legation, given permission to return.

I am, etc., JOHN W. FOSTER.

(Foreign Relations, 1881, p. 1022.)

Mr. Hoffmann to Mr. Frelinghuysen.

[Extract.]

LEGATION OF THE UNITED STATES,
St. Petersburg, January 9, 1882.

SIR: Referring to the correspondence between the department and this legation upon the subject of American Jews in Russia, I have the honor to report the following curious case:

About three weeks ago I was called upon by a man of the name of James G. Moses, who produced his United States passport and stated that he was a Jew; that he was employed in the Ceniselli circus in this city as stable director; and that he had been ordered out of the city as a Jew. He added that he was not "one of those Talmud Jews"; that be belonged to the American Reformed Church, known in Russia as the Karaim Jews.

* * * I asked the consul general, who is in relations with the municipal authorities, to apply to Gen. Kosloff, prefect of police, on Mr. Moses's behalf.

As soon as Gen. Kosloff understood that Moses was a Karaim Jew he told the consul general to send the man to him the next morning, accompanied by his employer.

The next morning they went accordingly, and the result of the interview was that Mr. Moses was informed that Gen. Kosloff would recommend that permission be given him to remain and in the meantime to give himself no uneasiness. I understand that he has since received the necessary permission.

It appears that the Karaim or Reformed Jews are of a superior class and have never caused the Russian Government any trouble or been found enrolled among the Nihilists.

Mr. Moses is a resident of New York, born in Germany, but taken to the United States when a young child.

I am, sir, etc.,

WICKHAM HOFFMANN.

(Foreign Relations, 1882, p. 444.)

Mr. Hoffmann to Mr. Frelinghuysen.

LEGATION OF THE UNITED STATES,
St. Petersburg, February 14, 1882.

SIR: At my request Mr. Rawicz, United States consul at Warsaw, has prepared for me a brief account of the late anti-Jewish riots in that city. Mr. Rawicz is a banker and a gentleman of intelligence and experience, and I have much confidence in the soundness of his judgment and the accuracy of his statements.

I am, sir, etc.,

WICKHAM HOFFMANN.

(Foreign Relations, 1882, p. 446.)

Mr. Rawicz to Mr. Hoffmann.

CONSULATE OF THE UNITED STATES,
Warsaw, February 1, 1882.

A BRIEF ACCOUNT OF THE LAST RIOTS AT WARSAW.

In the month of April last, just before the holiday of Corpus Christi, on which, according to the Catholic custom, great religious processions take place all over the whole country, there appeared in the streets and workshops of our town, as well as in many of the principal manufacturing towns in the whole country, printed proclamations instigating the Christian population against the Jews. Similar tendencies were never heard of here until the anti-Semite riots in Russia, namely, Kieff, Odessa, Charkoff, etc., and it is certain they did not spring out on this soil, but were conveyed here from the main source.

The sober and well-thinking inhabitants succeeded, with the assistance of the local governor general, in influencing the Catholic clergy, who again, on their part, by proper sermons, preached from the pulpits all over the country, succeeded in refraining the greater part of the lowest class of people in taking part in the riots, and in reality the last events were only perpetrated by minor apprentices, people of the lowest rank, without any employment, and reprobates, as there were hardly any amidst the whole number of the arrested that might be said belonged to the better class of artisans; and it is a fact, proved by the investigating judges, that the violent hands laid upon the property of others were only those of the rabble, amidst whom appeared leaders never seen here before, but that such an event could possibly take place here was not supposed even by the greatest pessimists.

During the divine services on Christmas day in the Holy Cross Church, situated in one of the principal streets of this town, about 12 o'clock in the day, when the church was overcrowded with the pious, a cry of "fire" was raised, as it was afterwards ascertained, by pickpockets, one of whom was a Jew; and it is said the same cry was simultaneously raised in four other churches. The people began to throng in the entrance, and as the church doors are somewhat elevated, to which two flights of broad stone steps of 13 steps each are leading, here they began to crowd, fall, and trample each other, and here principally the whole catastrophe took place, so that in the course of a quarter of an hour there were 30 killed and 26 seriously injured, who were taken to a hospital close by, and some of whom died soon after. The gov-

ernor general appeared on the spot in order to exert his influence on the excited populace, and just at that time voices were heard from amidst the crowd, "It is the Jews that caused this disaster; let us have our revenge on the Jews."

Being a first-rank holiday, only the Jewish shops were half opened, and the rabble began to pilfer the Jewish brandy and tobacco shops, as well as their private lodgings, principally those belonging to the poorer classes and those situated in the back streets, and before the police, gendarmes, and troops could render any real service the rest of that day and the whole night passed. On the next day, however, the authorities took more energetic steps, and on the third succeeded in putting a final stop, and since that time no attempt whatever was made to renew the riots. During these whole disturbances there has not occurred either a single case of murder, or violation of woman, as the chief object of the rabble was pilfering, which was effected, according to official statement, in 1,025 shops, and the total number of families that suffered is stated to be 2,011, about 10,000 persons; and the damages caused by these broils, according to official statement of the committee appointed for that purpose, was reduced to the amount of 767,339 rubles, as according to private Jewish accounts it reached to 1,200,000 rubles, which sum was doubtless greatly exaggerated.

The number of persons arrested was over 3,000. The exaggeration of these street broils in the Times, as well as in many of the other foreign papers, may be principally attributed to Jewish propaganda, for the purpose of exciting commiseration, and consequently augmenting the subscriptions collected everywhere, and which to the present day amount to 146,400 rubles.

Besides the poorer class of Jewish shopkeepers who sustained considerable losses, as many of them lost all they had, it also affected in a great measure many of the house proprietors, merchants, manufacturers, brewers, with whom that class of people carried on business, as on that account the Jews, with few exceptions, do not pay neither their rents nor for the goods they had taken.

It is the general conviction here, and there is not the least doubt in the truth of it, that this evil propensity was totally unknown here, but as I already stated above, was brought over from the main source, but which, notwithstanding the antipathy toward the Jews, fortunately did not take deep root, thanks to the clergy, who since the very appearance of the stimulating proclamations, not only in the churches have availed themselves of every opportunity to avert the evil, and who now continue their work to obliterate the traces of inhuman deeds.

I am, sir, etc., JOSEPH RAWICZ, *United States Consul.*

(Foreign Relations, 1882, p. 446.)

Mr. Frelinghuysen to Mr. Hoffmann.

DEPARTMENT OF STATE,
Washington, April 15, 1882.

SIR: The prejudice of race and creed having in our day given way to the claims of common humanity, the people of the United States have heard with great regret the stories of the sufferings of the Jews in Russia. It may be that the accounts in the newspapers are exaggerated, and the same may be true of some private reports. Making, however, due allowance for misrepresentation, it can scarcely be doubted that much has been done which a humane and just person must condemn.

The President, of course, feels that the Government of the Emperor should not be held morally responsible for acts which it considers wrong but which it may be powerless to prevent.

If that be true of this case, it would be worse than useless for me to direct you, as representative of the United States, to give official expression to the feeling which the treatment of the Jews calls forth in this country. Should, however, the attitude of the Russian Government be different, and should you be of the opinion that a more vigorous effort might be put forth for the prevention of this great wrong, you will, if a favorable opportunity offers, state with all proper deference that the feeling of friendship which the United States entertains for Russia prompts this Government to express the hope that the Imperial Government will find means to cause the persecution of these unfortunate beings to cease.

This instruction devolves a delicate duty upon you, and a wide discretion is given you in its execution. However much this Republic may disapprove of affairs in other nationalities, it does not conceive that it is its right or province officiously and offensively to intermeddle. If, however, it should come to your knowledge that any citizens of the United States are made victims of this persecution, you will feel it your duty to omit no effort to protect them and to report such cases to this department.

FREDK. T. FRELINGHUYSEN.

(Foreign Relations, 1882, p. 451.)

Mr. Hoffmann to Mr. Frelinghuysen.

LEGATION OF THE UNITED STATES,
St. Petersburg, April 29, 1882.

SIR: The anti-Jewish riots have commenced again in the south of Russia. They have been marked, as heretofore, by great and wanton destruction of property, but by little personal violence.

The scene of the worst disturbances has been the town of Balta, a town of about 25,000 inhabitants, nearly three-quarters of whom are Israelites. It lies about 125 miles northwest of Odessa.

The riot is reported to have been from some trifling cause, such as the refusal of a Russian peasant to pay for the liquor he had drunk in a wine shop kept by a Jew.

The police, which was very weak, appear to have interfered simply to prevent the Jews from defending themselves.

At first the rioters did not number more than 200, many of them boys. But the peasants began to come in from the country, joined the rioters, and gave a more serious turn to the affair. The riot lasted two days before troops arrived from Odessa to quell it. During this time, of the thousand homes occupied by the Jews all, except perhaps 50, were gutted and sacked. As far as ascertained, one Israelite only lost his life. But the amount of suffering undergone by over 15,000 people—men, women, and children—destitute of food and lodging, is painful to contemplate.

I am satisfied that the Russian Government is truly anxious to put a stop to these riots. It is reported that in the country far from the garrison towns the German inhabitants are very uneasy, and the saying is not uncommon, "After the Jews, the Germans."

But the position of the Russian Government in this matter is an exceedingly difficult one. In a conversation with Gen. Ignatieff, a few days since, he told me that the Government had received the reports of the numerous local boards appointed by it last year to suggest measures for the amelioration of the condition of the Jews; that they had not only by a majority but unanimously recommended their expulsion from the Empire. "We have, then," he said, "on the one hand 5,000,000 Jews, Russian subjects, clamoring to be freed from all special restraints, and we have on the other 85,000,000 Russian subjects clamoring to have the 5,000,000 expelled from the Empire. What is to be done in such a case?"

WICKHAM HOFFMANN.

(Foreign Relations, 1882, p. 452.)

Mr. Hoffmann to Mr. Frelinghuysen.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 1, 1882.

SIR: Referring to your note 123, of the 15th of April last, and to my number 226, in reply, I have the honor to forward you herewith a copy of a circular of Count Tolstg, minister of the interior, addressed to the governors of the different Provinces of the Empire, upon the subject of the persecution of the Jews, together with a translation of the same.

You will see that the opinion which I have ventured to express in my number 226, and previously in my number 221, that the Russian Government was sincerely desirous of putting a stop to all violence toward the Jews, is borne out by this circular.

WICKHAM HOFFMANN.

(Foreign Relations, 1882, p. 454.)

[Inclosure to No. 272.]

The regulation of the committee of ministers approved by His Majesty the Emperor the 3d of May last set forth:

That it must be brought to the public knowledge that the Government has resolved to pursue with inflexibility all violence exercised against the person and the property of the Israelites, who are under the protection of the law, common in this respect to all the population by the same right as those of the other subjects of His Majesty the Emperor. That the competent provincial authorities must be informed that the charge belongs to their responsibilities of the measures now to be taken with a view to avoid occasions of similar disorders and to put a stop to them as soon as they may break out; and for all negligence in this respect on the part of the administrative

authorities and the police, when they might have but have not, taken the trouble to prevent acts of violence, those who have been guilty will be relieved of their functions.

The publication of this expression of the imperial will has unfortunately been provoked on several occasions by disorders which have been renewed in different localities of the Empire, accompanied by violence against the Israelite population.

Such disorders, which, as a result, cause individuals to lose, without distinction of race and religion, the certainty of the security of their person and of their property, prove the insufficiency of the guaranty of the regular and peaceable course of public life and deprive the Government of the possibility of devoting itself solely to a capital question, and just now of special importance, viz, to harmonize the activity of all governmental and social institutions and direct it toward the determined and clearly defined object of the reestablishment of tranquillity and order, which are the only sure guarantees of the ulterior development of public security and tranquillity. With this aim the regulations of the committee of ministers not only invite the competent authorities to take our peremptory measures to prevent the manifestation of all acts of violence, but to point out in addition the necessity of relieving from their functions persons who may be guilty of any negligence in this respect.

In calling the most serious attention of the governors of the provinces to the punctual and inflexible execution of the imperial will expressed by the committee of ministers, I think proper on my side to explain, in development of the fundamental idea, that violence and arbitrariness can not be justified by any inciting causes; that for this reason the adoption of effective measures to be taken to prevent and arrest disorders rests upon the personal responsibility of the governors, and that every manifestation of local disorder will, as its inevitable consequence, render also legally responsible all the functionaries whose duty was the immediate charge of preventing disorders.

Not judging it possible to give here any more direct instruction relative to the means of obtaining the above-mentioned end, considering that, on one side, these means are indicated by the law itself and that, on the other, the choice to make among them, when it is a question of applying them depends upon accidental circumstances, temporary and local, I have the conviction that the governors of the provinces will carry out all the requirements clearly established by the imperial will, and will fully justify my hopes on this subject by pursuing on their side, without the least hesitation, all negligence of the authorities. (Official Messenger.)

(Foreign Relations, 1882, p. 454.)

Mr. Frelinghuysen to Mr. Taft.

DEPARTMENT OF STATE,
Washington, December 18, 1884.

SIR: The Hon. S. S. COX, M. C., has addressed the department on the subject of a report that the Russian minister of the interior has ordered the expulsion from Odessa and other cities of the interior of all Hebrews holding foreign passports unless also holding "permits of residence."

So far as any of these persons are citizens of the United States I have to ask that you will communicate to the foreign office the desire of the President that law-abiding American Hebrews, on due exhibition of such passports, may receive the adequate permits of residence referred to. Should it prove that no such order has been made, you will telegraph, and in case the order has been issued you will report as promptly as convenient the approximate number of American citizens in the various cities where it is operative affected by it, that I may apprise Mr. COX of the facts.

I am, etc.,

FREDK. T. FRELINGHUYSEN.

(Foreign Relations, 1885, p. 655.)

Mr. Taft to Mr. Frelinghuysen.

LEGATION OF THE UNITED STATES,
St. Petersburg, January 17, 1885.

SIR: On the receipt of your dispatch No. 7, dated December 18, 1884, relating to the reported order of the minister of the interior of this Government, requiring foreign Hebrews to have a "permit of residence" as well as a passport in order to reside in Odessa and certain other cities in Russia, I immediately addressed a letter to the

foreign office containing specific inquiries on all the points covered by the dispatch, and communicated the desire of the President that "permits of residence" be granted to law-abiding American Hebrews. I have also personally called on the secretary of foreign affairs and on the secretary of the interior, and have likewise made inquiry of ambassadors of countries which have Jewish citizens residing in Russia. There is undoubtedly such an order as you describe in force, but it is not limited to Jews. No foreigner is allowed to reside in Russia without a "permit of residence," as well as a passport. The difficulty is that the Government in granting permits and licenses discriminates against foreign Jews, according to certain laws in force in Odessa and other cities, and declines generally to grant permits of residence to them unless they are merchants of the first guild, paying annually 800 rubles each for such a license. This is undoubtedly a different rule from that adopted by the Government for other foreigners, or for native Jewish citizens, and I have so presented the case to the secretary of foreign affairs. But it is claimed by this Government that while according to Article I of the treaty of 1832 American citizens enjoy the same security and protection as do the inhabitants of the country in which they reside, it is upon condition that they submit to the laws and ordinances established there, and particularly as to the rules of commerce in force, and that as a matter of fact Israelites are subjected to a particular régime in Russia, regulated by laws and ordinances, and rules for commerce, industry, and the police, and further that this régime referring to all foreign Israelites, without national distinction, can not be considered in the case of one individual Hebrew to whom it applies as any violation of the treaty of December 18, 1832.

It is pretty clear that this Government adheres strongly to the opinion that it is essential to the interest of the Empire to restrict by law the residence of foreign Jews in the cities of the Empire.

I find that Germany has many more cases of the kind than we have, and England also has Hebrew citizens residing in Russia, though not so many as Germany. Both Germany and England have conventions with Russia similar to that existing between the United States and Russia. Indeed, I think the articles are identical. I understand that the German Government does not dispute the right of the Russian to adopt these laws on the regulation of its internal affairs, notwithstanding the convention.

Although the principle has been questioned by the English Government, the regulations of the Russian Government on the subject have been submitted to without any disturbance of friendly relations.

As to the number of American citizens residing in the cities of Russia, accurate information is difficult to obtain, if it be at all practicable. I have requested the foreign office to give me such information on the subject as may be practicable, and I shall make such other inquiries as I can; but from the best information I have been able to obtain my belief is that the American Hebrews in Russia are very few. There is an evident belief on the part of the Russian Government that most of the Jews who have gone to America, obtained letters of naturalization, and returned to Russia for business are speculating on their naturalization papers to evade their military duty to the Russian Government.

I write this statement without waiting for a specific written answer to my beforementioned communication to the foreign office on the subject of your dispatch No. 7, as it may be some time before the answer will be received, and I believe that I am able to give a correct idea of the position of this Government on the subject from the verbal communications I have exchanged with the secretary of foreign affairs and from other sources.

ALPHONZO TAFT.

(Foreign Relations, 1885, p. 655.)

Mr. Taft to Mr. Bayard.

No. 30.] LEGATION OF THE UNITED STATES,
St. Petersburg, March 18, 1885.

SIR: Referring to instruction No. 7 from the Department of State to this legation and to my answer in part thereto, numbered 26, I have the now honor to send the answer of this Government to my application, made in pursuance of first-named dispatch, with a translation thereof.

I am, etc. ALPHONZO TAFT.

(Foreign Relations, 1885, p. 657.)

Mr. Vlangaly to Mr. Taft.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERNAL RELATIONS,
St. Petersburg, March 5, 1885.

Mr. MINISTER: Your note of December 22, 1884, with which you favored the ministry, had for object to obtain information on the point whether the Imperial Government had issued an order by which all foreign Israelites were expelled from the city of Odessa and other localities in the Empire. You at the same time expressed in the name of your Government the desire that permits of residence might be given to all Jewish citizens of the United States of America.

I have to-day the honor to inform you, on a communication from the ministry of the interior, that no such action has been taken by the Imperial Government.

In regard to furnishing the Jewish citizens of America with Russian permits of residence, the minister of the interior observes that he can not comply with this request, as according to the regulations established on this subject, every foreigner having this national passpost in due order is obliged, on his own application to be furnished by the competent Russian authority with a permit of residence.

The law at the same time grants to foreigners the right to bring complaint for any irregularity that may take place in this respect.

I have also to add that the Imperial Government is unable to supply the legation of the United States with statistics concerning the number of Jewish-American citizens residing in Russia.

Receive, etc. A. VLANGALY.

(Foreign Relations, 1885, p. 657.)

Mr. Lothrop to Mr. Bayard.

LEGATION OF THE UNITED STATES,
St. Petersburg, September 7, 1886.

SIR: As the question has recently come up again, I think it my duty to advise the State Department of the present status of the right of citizens of the United States being of the Hebrew faith to enter into or dwell in Russia.

The laws of Russia forbid this. It is true that there are some exceptions in favor of members of great banking or commercial houses, but this is of no practical value to Americans.

The matter has heretofore been the subject of careful and extended correspondence between the State Department and this legation, especially in 1880 and 1881. A digest of the Russian law may be found in Mr. Foster's dispatch of July 14, 1881.

Every effort seems to have been made to induce the imperial authorities to modify its laws in favor of our citizens, but wholly without success. There is now no probability of such modification. Indeed, there seems to be a revival of strictness in enforcing the restrictions. Strict orders have been issued to Russian officials abroad not to vise the passport of any persons recognized as foreign Jews. The object is to turn all such persons back at the frontier, and thus prevent their entering the Empire. If, however, any get through, their passports are subjected to renewed scrutiny in all large cities, and if they are recognized they are forthwith ordered to leave. The papers announce that only a few days ago two English Jews, one of them a member of Parliament, were peremptorily expelled at Moscow.

On August 29 a most respectable Hebrew merchant of New York, a native-born citizen of the United States, who was traveling in Russia as a tourist with his family, was waited on at his hotel in this city by the police, his passport returned to him, and he was ordered to leave the city that night. He came to me immediately and I at once not only went to the foreign office but filed a protest in writing against this order and asked for its revocation. At the same time I advised him to remain pending my application. My explanation of this gentleman's character and the purpose of his visit was very readily accepted and the order of expulsion revoked.

The Imperial Government defends its position on the ground that every country must have full liberty to determine who shall have the right to enter and dwell in its territory. It is not pretended that American citizens of the Hebrew faith have ever at any time proved dangerous to the peace or safety of the Empire. But it is urged that discrimination between nationalities is inadmissible, and that the harshness of the general rule it mitigated by special permission given in all proper case upon special application.

I believe that the Russian officials are disposed to be obliging in this respect, but it can never be acceptable that any body of American citizens should be subject to any such necessity. It seems to be an imputation which is justly held most sacred.

Still, as there is not the slightest intention to abrogate or even modify the law, it may be desirable that the facts should be more fully known in America.

Much annoyance and mortification would be saved if our Hebrew fellow citizens desiring to come to Russia should apply for special leave. Letters of introduction to the legation would be most useful in promoting such application. Permission could doubtless be obtained in all ordinary cases.

The question has arisen in several other cases; but in no case of an American citizen has an actual order of expulsion been made.

I submit the matter to you for such consideration and direction as you shall think best.

I am, very truly, etc., GEORGE V. N. LOTHROP.

(Foreign Relations, 1886, p. 773.)

Mr. Bayard to Mr. Lothrop.

DEPARTMENT OF STATE,
Washington, September 23, 1886.

SIR: In your No. 77 you inform the department of the present status of the Russian law respecting the right of an alien of the Hebrew faith to enter or reside within His Imperial Majesty's territory.

You state that, save in exceptional cases, it is altogether denied, and that though efforts have been made on various occasions by the legation to induce the Russian Government to modify this law, there now exists no probability of such modification, although special exception has been made at your request.

The treatment of alien Jews prescribed by the Russian law is such as we, whose system of government rests on toleration and freedom of conscience, can not comprehend without difficulty or view without regert. Aimed, as it would appear, principally at Russian Polish Jews by origin, and rigidly applied as to them even when they are lawful citizens of another State, the fact that the enforcement of the law in the case of worthy foreign Jews of other origin appears to be within the discretion of the police authorities and that the representations of the legation are generally heeded when an American Jew is in question fortunately makes occasion for protest rare.

The instance cited by you is in point where a native-born Hebrew merchant of New York was promptly relieved from a harsh order of expulsion.

Any case arising should be carefully examined on its merits, and where the person interested is not by origin a Russian Jew, returning to his native country under circumstances suggesting danger to the State and implying the exercise of the ultimate right of self-preservation, the earnest efforts of the legation will doubtless be exerted to secure relief in whatever way the Russian administrative system may indicate as practical.

The Government of the Czar is fully aware that we do not admit the principle of discriminating against American citizens because of their religious tenets.

T. F. BAYARD

(Foreign Relations, 1886, p. 774.)

Mr. Bayard to Baron Rosen.

DEPARTMENT OF STATE,
Washington, October 4, 1887.

The Secretary of State presents his compliments to the chargé d'affaires ad interim of Russia, and has the honor to request him to cause the inclosed documents to be authenticated under the seal of the Russian legation and then returned to the Department of State.

(Foreign Relations, 1887, p. 971.)

Baron Rosen to Mr. Bayard.

IMPERIAL RUSSIAN LEGATION,
Washington, September 23–October 5, 1887.

The chargé d'affaires of Russia presents his compliments to the Secretary of State, and has the honor to say, in reply to his communication of the 4th of October, that the documents forwarded for authentication relating to property in Russian Poland, and issuing from persons who appear to be Hebrews, could only be legalized by this legation if accompanied by passports for foreign travel or other documentary evidence showing that the said persons had left Russia with the permission of the Imperial Government, as all legations and consulates are under instructions not to authenticate any documents whatsoever relating to the transfer of property in Russian Poland issuing from Hebrews who have left Russia without permission. In the absence of the evidence above referred to the chargé d'affaires of Russia regrets not to be able to comply with the requests of the Secretary of State in regard to the authentication of the said documents, which are returned herewith.

(Foreign Relations, 1887, p. 971.)

Mr. Lothrop to Mr. Bayard.

LEGATION OF THE UNITED STATES,
St. Petersburg, November 29, 1887.

SIR: As I have in a previous dispatch had the honor to make known to you the laws of Russia prohibit foreign-born Jews, with some unimportant exceptions, from coming into Russia, or becoming domiciled therein.

During this year the law has been very rigorously enforced against all newcomers, and it now seems to be a fixed policy to drive out all who have hitherto become domiciled in the Empire. The newspapers mention the expulsion of large bodies in southern Russia, where they principally live. I have been appealed to by several naturalized American citizens, who have been notified that they must leave the Empire by the end of the year.

I have replied to all such applications that, while I should always be glad to render them any proper asistance, this was a matter wholly within the domain of Russian law, so long as foreign Jews of all nationalities were treated alike, and no discrimination made against American citizens.

The ministers of finance, of the interior, and of foreign affairs have power on petition to grant permission to remain here in special cases.

Mr. D. Waldenberg, a naturalized American citizen, but a Jew of foreign birth long settled at Plock and doing business there, was some months ago notified that he must leave the country by the end of the year. He was so well esteemed by his neighbors that they generally petitioned for a grant of special permission in his favor. I thought the case was one in which I could properly join in the application, and did so. No reply has been made.

I have a warm sympathy for these people whose homes and business are thus relentlessly broken up; but my concern would be even deeper if they were only temporarily living here, engaged in promoting business and commerce with their adopted country. But I regret to say that in nearly every case brought to my attention they seem to be permanently settled in Russia and engaged in its domestic business.

As many of these persons, if expelled, will be likely to find their way back to America, where their hardships may attract attention, and it has seemed to me proper to set out the precise facts of the case, and to show that the unfortunate condition of this class of our fellow citizens has not been regarded here with indifference.

GEORGE V. N. LOTHROP.

(Foreign Relations, 1888, p. 1399.)

Mr. Smith to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, September 25, 1890.

SIR: You have been advised by previous dispatches from this legation that the published rumors of the new proscriptive measures, or the revival and oppressive application of the old and obsolete edicts, against the Hebrew residents and subjects

of the Russian Empire are declared by the Russian Government to be entirely groundless. Notwithstanding the authoritative denial of these reports, they still crop up from time to time, and are persistently repeated with a degree of circumstance well calculated to create the impression that they have some foundation of fact. This continued imputation of purpose and acts, to which, if really entertained or executed, we could not be indifferent, renders it proper that I should apprise you of some further evidence on the subject.

The statement recently appeared in the colums of the London Times that, despite the disavowal of the Russian Government, some 500 or 600 Hebrew families residing at Odessa had been summarily notified that they must immediately abandon their homes, and in fact that they had already been expelled from the country. It has come to my knowledge that in view of this publication the British Embassy at this capital called on the British consul at Odessa to investigate the story and report upon its truth. His report has now been made, and I am able to communicate its substance. He directed his inquiries not only among the Government officials, but among the Hebrews themselves, and the latter were as emphatic as the former in declaring that no order of the character described had been issued and no movement of the kind attempted. He found no confirmation of the story in any quarter. A number of Hebrew families had emigrated or were preparing to do so, but the action was entirely voluntary on their part and was not taken under compulsion. This emigration was explained by the rabbis and the highest authorities among the Hebrews as due to the fact that there were many youths in those families, and that, as the number admitted to the universities in Russia is limited, they removed to other countries to secure the opportunity of higher education; and thus it was made clear that there was no foundation for the particular charge which has been preferred against the Government.

These reports of new proscriptive designs against the Hebrews on the part of the Russian Government have actually created more concern in other countries than here, because, so far as can be ascertained, they had their sole origin and obtained their sole credence remote from the scene. Had there been any good reason for supposing that measures so repugnant to every sentiment of justice and humanity were actually undertaken or seriously contemplated, it would have been a duty to report them for such consideration as they would have required; but it is a source of special gratification to be able to present not only the denial of the Government, but confirmatory testimony that these injurious allegations are baseless.

I have, etc.,

CHARLES EMORY SMITH.

(Foreign Relations, 1890, p. 701.)

Mr. Smith to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, February 10, 1891.

SIR: A few days ago I had an extended, interesting, and suggestive conversation with the imperial minister of foreign affairs, Mr. de Giers, concerning the attitude and policy of Russia in respect to the Jewish subjects of the Empire. Mr. de Giers himself introduced the theme. In the absence of specific instructions and of any pending cases involving the rights of American citizens of Jewish faith, and thus touching the subject more or less directly, I might have felt some hesitation, unless in the couse of an informal and personal talk, in opening an inquiry possibly liable to the reproach of intruding into the domain of the internal policy and domestic affairs of the Empire. But the freedom with which Mr. de Giers himself raised the question removed all embarrassment. In view of recent publications throughout the world and of the wide public and humane interest in the subject, the exposition and statements of the minister of foreign affairs are noteworthy and valuable. I can not undertake to repeat all that was said in a conversation that was quite prolonged, but will give the most salient features.

Mr. de Giers began by alluding to recent publications in American newspapers respecting Russia and the Jewish question, and said that these publications had been the subject of a conversation between the Emperor and himself the day before. Some of these contained personal references to the American representative, and an expression of the Emperor on this point was repeated—an expression to which allusion is made only as indicating how the conversation originated. Mr. de Giers then referred to the current reports that the Russian Government had projected or meditated new laws of a harsh character against the Jews, and said in the most explicit terms that no new laws had been made on this subject, and none were in contemplation. He

added that he was thoroughly informed, for he was a member of the council having charge of the question. The published reports were destitute of foundation and no such purpose was entertained as that which had been imputed to the Government.

The statement was a repetition and confirmation of the denial made a few months ago on the first publication of the reports. At that time, however, it was charged in response that, while it might be true that no new laws had been framed or would be promulgated, still substantially the same object would be attained by the revival and vigorous execution of the edicts of 1882, which had long remained dormant. I recalled these facts and asked Mr. De Giers whetherthere was any good warrant for this allegation. He replied that there was not. The edicts of 1882 were, he said, somewhat misunderstood. They were not strictly new measures. They were rather in the nature of formulating and more precisely defining provisions already in existence in less specific and exact form. They had come just after the assassination of the late Emperor and after the anti-Jewish disturbances in several of the interior Provinces where there was a tendency toward a more stringent application of the restrictive policy. It was his own feeling that the minister of the interior at that time had proceeded with too much rigor. Old laws which had slept practically unexecuted in many features were suddenly applied with too severe a hand, and hardships had inevitably resulted.

Since then the execution of the laws had again been relaxed, and their restriction had been disregarded and overstepped. I asked Mr. De Giers, if it was not true that measures had recently been taken toward the removal of the Jews from the villages to the towns in the pale to which their residence is limited by law. He answered that there was some movement in that direction. What was being done was to tighten the application of the old laws somewhat, but it would be done gently and gradually—I am careful to quote his own words—and with every reasonable allowance and consideration. The laws had not been changed; they had simply slumbered, in large part, and because they had been so generally disregarded and nullified both by the Government and by the Jews, the movement to enforce them, even though in a limited degree, created all the more outcry.

In answer to my inquiry as to why it was deemed necessary to withdraw the Jews from the villages and lands where they had been located, Mr. De Giers said that, so far as it was done at all, it was a measure of self-protection. This question involves what is well known to be a subject of earnest controversy. The Jews contend that when they have a fair chance they address themselves to agriculture as faithfully and successfully as other people. Mr. De Giers, however, maintained the other view. He said that if they would really devote themselves to agricultural pursuits the Government would leave them undisturbed and would gladly give them land for cultivation. He cited a special and notable experiment of the kind in the Province of Kiev under the Emperor Nicholas, which was claimed to have resulted unfortunately. He insisted that when they acquired land they secure a Christian tenant and go on as before with their own vocations. He declared that they monopolize what he described as the saloons and the mills. They make such a combination that all operations of production and sale must go through their hands. He gave these allegations as an explanation of the law which restricts Jews to the towns, and insisted that it was a question not of religion but of economic policy. This view will be vigorously resented and resisted by the friends of the Jews, who hold that it is unfair in statement and unjust in conclusion, and that so far as it has a basis of fact, the conditions grow out of the exceptional necessities imposed by a long historical course of oppressive measures directed against the race and not limited to any country. But Mr. De Giers was stating what was relied on as the justification for the policy of the Russian Government, and in reporting his observations, I am under the duty of giving them as he made them.

He frankly admits that the question was one of great difficulty and perplexity, and it was hard to tell what ought to be done in justice and reason. On the one hand, he recognized that the Jews suffered hardships, and he felt much sympathy for them. On the other hand, it was necessary to protect their own people, and especially the simple and improvident peasantry. In this connection he adverted to the restriction upon the proportion of Jewish students permitted to enter the schools. The Hebrews were an intellectual race, more alert mentally than the ingenuous people by whom they were surrounded, and if they had free and unlimited access to the highest opportunities of education they would absorb the professions within themselves. As an additional reason, he repeated the statement earnestly made in some quarters and as earnestly denied in others—that among the educated Hebrews are found many nihilists.

Mr. De Giers recurred several times to the fact that the laws were left in a large measure unexecuted. They existed on paper, but they were loosely applied. For

instance, theoretically, Jews are not permitted to reside at St. Petersburg or at Moscow, yet in practice they are here by the thousands, filling the professions and the banking houses, with their great synagogue, recently erected, and their unfettered religious devotions. The laws had long nominally restricted the movements of the Jews to the towns within the 15 districts which constitute the pale. They had prohibited those proscribed people from holding lands or dwelling in the villages, except under certain conditions. But these laws had not been strictly enforced and there has been a steady encroachment upon prohibited ground, and now that their interdictions are again applied to some extent it produces all the more friction and complaint. In answer to an inquiry as to whether there was not at present a considerable emigration of Jews under these coercive measures or through fear of a more serious proscription, Mr. De Giers said that at various times there had been an emigration under such apprehensions, but in many of these cases the emigrants found their way back worse off than when they went away.

One great source of trouble, he remarked, was the difficulty of controlling the subordinate officials. He did not doubt that there were wrongs of which the Government had no knowledge. In an empire as vast as Russia it was impossible to watch closely all of the thousands of employees. The whole question, Mr. De Giers repeated, was surrounded with difficulty, but he hoped that some solution might be found though he did not suggest what it might be, and his tone carried the impression that there was yet no clear perception of a satisfactory issue.

Though the fact that Mr. De Giers himself introduced the topic, and was so free and frank in discussing it, seemed to invite and encourage corresponding freedom of inquiry, I intimated that I felt some hesitation in interrogating him upon what might be regarded as a matter of internal policy. In reply he desired me to dismiss all hesitation and to ask any question I liked. He added, speaking with emphasis:

"Don't hesitate to ask even disagreeable questions, or questions that you might think disagreeable, for we are so conscious of our good intentions in this matter that we are willing to meet any inquiry."

The subject had come up unexpectedly, and I thought it best under the circumstances, to confine myself chiefly to eliciting information, and to reserve representations deemed expedient or obligatory until another occasion, after communicating with the department. I did, however, feel it incumbent on me to say, as I did during the course of the conversation, that, while we recognize the treatment of the people within its own borders as a question of domestic concern that belongs primarily to Russia, except so far as it may affect the rights of American citizens, we hold, and in any reference to the subject the representative of the United States must hold, the attitude which is in harmony with the theory and practice of our Government, which makes no distinction on account of creed. I added that the American people, prompted by the liberal and humane sentiments which distinguished them, would witness with satisfaction movements toward the amelioration of the condition of the Jews; at the same time, in any utterance on the question, we desired to approach it in a fair and friendly spirit and with a just sense of the peculiar situation of Russia. To this Mr. De Giers replied that he thought the feeling of the American people was quite natural; there was, unfortunately, much in the condition of the Jews to pity, but the conditions of the two countries were entirely different. The Jews of the United States were of a high class and were in accord with the general body of the citizens, and he thought the American people, though their feeling was easily understood, misapprehended the real facts as to Russia.

Such, in substance, and at the more vital points in the exact language, so far as it can be recalled, was the conversation. It furnishes as a fresh assurance, in harmony with the information I have heretofore communicated, that the Russian Government itself declares that no new measures of a proscriptive character against the Jews are contemplated. As to the existing laws, they have come to be fairly well known, though on various points it is still difficult to ascertain their precise provisions. They consist of a vast mass of edicts, ordained from time to time, filling hundreds of pages, some of them actively in force and some of them practically obsolete and unexecuted. They subject the Jews to a special code in the matters of taxation, education, residence, rights of worship, limitations of industry and trade, and kindred affairs, entering into all the relations of life. If they were generally and stringently enforced they would involve incalculable hardship. As showing what the Russian Government itself says in explanation of these discriminatory and restrictive laws, and in regard to the disposition with which it approaches their administration, the statements of Mr. de Giers have a value that will be appreciated. His reputation as one of the most liberal and careful statesmen of Russia gives them weight. To a people trained with a different inheritance, and under a different system of reflection is, however, suggested that, whatever may be thought of the evils alleged in

justification of the existing policy, the remedy more consonant with the spirit of the age would seem to be not to proscribe an entire people, the innocent with the guilty, but to proscribe the offenses and proceed against the offenders without regard to their race or their faith.

On the question of the administration of the laws, I have instituted inquiries in other quarters, upon which I shall report hereafter.

CHARLES EMORY SMITH.

(Foreign Relations, 1891, p. 734.)

Mr. Blaine to Mr. Smith.

DEPARTMENT OF STATE,
Washington, February 18, 1891.

SIR: On the 26th of August last the House of Representatives adopted a resolution requesting the President to communicate to that body any information in his possession concerning the enforcement of the proscriptive edicts against the Jews in Russia. To this resolution the President responded on the 1st of October, and accompanying his response there was a report in which, with reference to the rumors that new measures of repression were about to be put in force, I said:

"Such a step, if in reality contemplated, would not only wound the universal and intimate sentiment of humanity, but would suggest the difficult problem of affording an immediate asylum to a million or more exiles without seriously deranging the conditions of labor and of social organization in other communities."

The correspondence communicated to the House of Representatives included your reassuring dispatch No. 44, of the 25th of September last; and this dispatch, together with assurances received in conversations with the diplomatic representative of Russia at this capital, tended to allay the apprehension necessarily aroused by the prospect either of the adoption of new measures or the harsh enforcement of the old.

Up to the present time the department has not been advised that any new edicts affecting the Jews have been promulgated. The cases of distress that have been brought to our notice are the result, in some instances, of the new interpretation and in others of the strict enforcement of regulations which have for some years been in existence, but of which the severity was not generally understood because they were not rigorously applied.

The department is informed that for many years the Jews in Russia have, as a race, been compelled to live within a certain area denominated the pale of settlement. Under the laws of May, 1882, it is understood that their places of residence within this area have been restricted by forbidding them to live in villages and to force them into the towns. The effect of the recent and summary enforcement of this measure in certain districts has been to deprive many of their means of livelihood. It is also understood that under the laws for many years in existence Jewish artisans have been permitted to reside outside of the pale of settlement. The department is informed that by a new interpretation of the law many classes of workers formerly regarded as artisans are now denied that privilege, and being suddenly forced to quit their homes and to swell the number of their race in the overcrowded towns within the pale of settlement, find themselves unable to gain a subsistence by the pursuit of their respective occupations.

Other measures, such as the withdrawal of the privilege of pursuing many occupations, the denial of admission to the schools, and the actual expulsion as "alien vagrants" of persons long domiciled in Russia contribute to swell the emigration. I forbear to enumerate the edicts particularly applicable to the family, by which the ties of relationship are rent and a premium put upon their severance. I do not dwell on these things, not only because it is not my purpose to indulge in a general criticism of the anti-Jewish laws, but also because those that I have explicitly referred to in the main account for the cases that have been brought to my notice.

That numbers of Jews have been and are daily being compelled to quit their homes in Russia by the enforcement of these oppressive measures is amply shown by the present immigration of destitute Russian Jews into the United States. Heretofore this immigration, although large, being mainly made up of persons who were in some measure prepared for the change, has not overtaxed the resources of the various benevolent associations which are so generously maintained and admirably administered by the Jews of the United States. I am told on excellent authority that within 10 years some 200,000 Jews of Russian origin have been received into this country, have been furnished, when necessary, with occupation and home, and have become speedily assimilated into the body politic, of which they form an orderly, thrifty, and law-abiding element.

The gravest fears are expressed lest this resource should fail if taxed with a great influx of Russian Jews, who by reason of their sudden expulsion from their homes, and their unfamiliarity with the language and ways of life in this country would stand in need of immediate, and in many cases long-continued assistance, and care.

You are aware that the problem of efficiently controlling immigration has been before the National Legislature for some years. Measures have already been adopted for its regulation, and several schemes of further legislation are now pending before Congress. These measures, however, have not been due to an inhospitable disposition. The policy of this Government in respect to the admission of aliens to its shores has been most liberal. It has afforded to many thousands a home and a ready entrance into its political and social life, and it still offers to spontaneous, self-helpful, and independent immigration a cordial welcome.

If measures of restriction have been adopted, it is only because it has been found necessary to avert the injection into the population of elements not assimilable and the bringing or sending hither the indigent and the helpless to become a charge upon the community. In no instance has any measure of expulsion or of oppression been adopted in respect to those who are already here, all of whom stand under the equal protection of the laws.

But the hospitality of a nation should not be turned into a burden. And however much we may sympathize with wanderers forced by untoward circumstances to quit their homes, and however ready the disposition to relieve the deplorable condition into which they may be cast by the application of the laws of their native country, the Government and the people of the United States can not avoid a measure of concern at the enforcement of measures which threaten to frustrate their efforts to minister to the wants and improve the conditions of those who are driven to seek a livelihood within its borders.

We are not forgetful of the ties of good relationship that have long subsisted between the United States and Russia, and of the friendly acts of Russia toward our country in the past. The Government and people of the United States are fully animated with a desire to preserve this cordiality of feeling, and for this reason they the more strongly deprecate the enforcement in Russia, in respect to a portion of her people, of measures which not only arouse a general feeling of disappointment, but which also operate to impose a tax upon the charitable and humane in this country.

The Government of the United States does not assume to dictate the internal policy of other nations or to make suggestions as to what their municipal laws should be or as to the manner in which they should be administered. Nevertheless the mutual duties of nations require that each should use its power with a due regard for the other and for the results which its exercise produces on the rest of the world. It is in this respect that the condition of the Jews in Russia is now brought to the attention of the United States, upon whose shores are cast daily evidences of the suffering and destitution wrought by the enforcements of the edicts against this unhappy people. I am pursuaded that His Imperial Majesty the Emperor of Russia and his councillors can feel no sympathy with measures which are forced upon other nations by such deplorable consequences.

You will read this instruction to the minister of foreign affairs and give him a copy, if he desires it.

I am, etc., JAMES G. BLAINE.

(Foreign Relations, 1891, p. 737.)

Mr. Blaine to Mr. Smith.

DEPARTMENT OF STATE,
Washington, February 27, 1891.

SIR: Your dispatch No. 75 of the 10th of February, reporting a conversation with Mr. de Giers in relation to the treatment of the Jews in Russia, was received by the departmen on the 25th of the same month. On the 18th of February, just a week previously, I addressed to you a communication to be read to Mr. de Giers on the same subject.

While the statement in that communication touching the harsh treatment of the Jews are completely confirmed by Mr. de Giers, I have observed with not a little satisfaction his readiness in suggesting this topic of conversation and his expression of willingness to consider any inquiries you might make. It was believed that the Government of Russia would not disregard the evidences which have appeared in various countries of the general interest and solicitude which have been elicited throughout the civilized world by the reports of the oppression of the Jewish race in the domains of His Imperial

Majesty. Nevertheless the fact that the subject has been brought forward by the imperial minister of foreign affairs himself increases our hope that the representations of this Government, based upon the deplorable aspects of the question which have been brought to its notice, will not only receive the consideration to which they are thought to be justly entitled, but will also more fully impress the Government of Russia with the fact that the effects of the repressive policy against the Jews are not confined to that country, but that they also excite the sympathy and appeal to the generous and charitable efforts of the people of other lands.

Ever since the transmission to you of the instructions of the 18th of February, the department has received fresh evidences of the immediate and material, as well as of the broad and general interest which has been felt in this country in regard to the hardships of the Jewish subjects of His Imperial Majesty. Almost every day communications are received upon this subject, temperate and couched in language respectful to the Government of the Czar, but at the same time indicative and strongly expressive of the depth and prevalence of the sentiment of disapprobation and regret. No Government can be insensible of a fact of so much significance and I am happy to perceive the appreciation of the sentiments and interests of other people which the conversation of Mr. de Giers discloses.

I am, etc., JAMES G. BLAINE.

(Foreign Relations, 1891, p. 740.)

Mr. Smith to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, February 28, 1891.

SIR: In view of the numerous and varied reports during the last few months concerning the purpose and action of the Russian Government in regard to the Jewish people living within the Empire, I have deemed it useful to institute some inquiries on the subject through the consuls of the United States. To this end I sent out in January a circular letter. The design of this circular was not to initiate a minute investigation into the details, which would require much time, but to elicit trustworthy information upon the spirit and tendencies which mark the present policy toward the Jews. It was deemed necessary to communicate only with the consuls located in the section where the Jews are found in considerable numbers, and the circular was therefore addressed only to the consuls at Warsaw, Odessa, and Riga.

They all agree that there is no evidence of the application and enforcement of new measures against the Hebrews. At the same time those on the western frontier of the Empire observe signs of the more stringent execution of the old laws which have heretofore so loosely and lightly been observed as to be practically inoperative.

As to St. Petersburg and Moscow, the best information I can gather leads to the conclusion that the present policy of the Government is inducing some withdrawal of the Jews from these centers.

The long-established laws permit only Jewish merchants of the first guild and Jews of certain other professional or artisan classes to reside in these cities. But the prohibition against Jews outside of these classes has not been enforced with any degree of strictness, and under the influence of this laxity thousands who are interdicted by the terms of the law have settled in St. Petersburg and Moscow. I do not understand that there is any harsh or general movement to enforce the law now, but am informed that such inquiries have been set on foot as to create the fear on the part of those not embraced within the tolerated classes that trouble may be experienced, and that under this apprehension some of them are removing from the two chief cities of the Empire.

I am, etc., CHARLES EMORY SMITH.

(Foreign Relations, 1891, p. 740.)

Mr. Smith to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, March 12, 1891.

SIR: I have the honor to report that I yesterday waited upon the minister of foreign affairs, Mr. de Giers, with a copy of your instructions No. 78, relating to the edicts and policy of Russia concerning the Jews. Upon hearing my statement of the

object of my call, Mr. de Giers requested me not to read the dispatch to him but to leave a copy which he could examine at leisure.

I then gave him a verbal outline of its contents, referring to the resolution of inquiry passed by the House of Representatives in August of last year touching rumored proscriptive edicts against the Jews and to your report in response. You had received assurances, so you stated in this dispatch, which tended to allay apprehensions that had been aroused by alarming publications, and the department had no information that any new measures hostile to the Jews had been undertaken. The cases of distress which had been brought to its attention were explained by the more rigorous enforcement of the old laws whose severity had not been understood so long as they had not been applied. That the Jews of Russia were subjected to coercive and oppressive measures which compelled them to quit their homes was shown by the number of unfortunate and indigent Russian Jews who were now arriving in the United States. You had been informed on excellent authority that within a period of 10 years this immigration amounted to 200,000. Most of these immigrants had been well provided for, but a further influx of destitute persons entirely unprepared for the conditions and requirements of American life would be a very serious burden for the American people. It was in this aspect of the results forced upon our country that the condition of the Jews in Russia under existing measures presented itself to the attention of our Government and people, and, in view of the mutual duties of nations, constrained this expression of their sentiments.

On this statement of the general tenor of your dispatch, Mr. de Giers hastened to ask at the outset what was its conclusion—what demand it presented. I replied that it presented no demand, but was a declaration of the views of the Government and people of the United States, which was submitted for the consideration of the Imperial Government of Russia under a sense of its own obligations. Mr. de Giers inquired particularly as to the statement that 200,000 Russian Jews had emigrated to the United States within 10 years. I repeated your statement on this point. He rejoined that if such a number of people had gone to the United States as workers to aid in developing the country he supposed they would be acceptable, but if they went to "exploit" the American people, as he expressed it, he could understand how objectionable it was. After some further observations of a general character Mr. de Giers concluded by saying that the dispatch would be received in the same friendly spirit in which it was sent; that he would submit it to the Emperor; and that, if it was determined to make reply either verbally or in writing, it would be duly communicated.

I have, etc., CHARLES EMORY SMITH.

(Foreign Relations, 1891, p. 741.)

Mr. Smith to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, April 20, 1891.

SIR: In my No. 79, it was stated that some of the Hebrew residents of St. Petersburg and Moscow were taking their departure from these cities under the apprehension that measures threatened in the near future and directed against them which would render their continued stay either quite uncomfortable or altogether impossible. These persons belong to the class of Hebrews who are prohibited by law from locating outside the pale of settlement. Under the nonenforcement of lenient administration of the law, they have established themselves here and at Moscow and have remained for years without being disturbed. But the premonition of a more stringent policy has led a few to withdraw themselves in anticipation of early steps for their forcible expulsion.

These fears have been measurably justified by the event. Within a few days the Russian journals have stated that 150 Jewish families of Moscow have been notified that they must remove from that city, and I am informed that 50 families of this city are about to receive similar notification. It is probable that these are only the forerunners of further expulsions. No new law has been ordained and none has been required to this end. It is held to be simply an application of the existing law hitherto unenforced. According to the strict letter of the law there are many thousands living here and at the ancient capital of the Empire without legal authority. The number is said to be from 10,000 to 20,000 at St. Petersburg and nearly 100,000 at Moscow. Though destitute of technical right, their residence has had the sanction of long toleration and has acquired the sacredness of an established home, the compulsory abandon-

ment of which would be attended with hardship. It is supposed that the result will be tempered with such a degree of consideration and such allowance of time for preparation as are compatible with a measure of this nature. The Government has declared that this new application of the old laws would be made "gently and gradually" and the steps now taken, with those to follow, will show how these terms are to be interpreted.

CHARLES EMORY SMITH.

(Foreign Relations, 1891, p. 742.)

Mr. Wurts to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, April 27, 1891.

SIR: Referring to Mr. Smith's dispatch, No. 89, of the 20th instant, I have the honor to transmit to you herewith inclosed a translation of an imperial ukase prohibiting the emigration of certain categories of Israelites from the zone assigned for Israelites, as well as their immigration into the city and Province of Moscow, and at the same time directing the expulsion of these classes of Israelites from that place into the zone assigned for their settlemtnt.

It will be remarked that this order applies only to Moscow, no mention being made of the city and Province of St. Petersburg, perhaps for the reason that the number of Jews in this city being estimated at five times less than at the ancient capital of the Empire, no special urgency is felt for a measure to arrest the increase of the Hebrew population in this place.

It is premature to report on how this order, made public only a few days ago, is being executed, but I regret to say that rumors are heard of undue severity in its application.

GEORGE W. WURTS.

(Foreign Relations, 1891, p. 743.)

[Imperial ukase concerning the domicile of Jews.]

On the proposition of the minister of the interior, His Majesty the Emperor, has deigned to give an order, on the 28th of March, 1891, as follows:

(1) To forbid until revision by legislative channel of the arrangement of article 157, note 3, of the regulation concerning passports, Israelites engaged in the business of machinist, brewer, distiller, and in general Israelite workmen and artisans, to emigrate from the zone assigned for the fixed settlement of Israelites; as also to emigrate from other parts of the Empire to Moscow or to the Province of Moscow.

(2) To charge the minister of the interior to take, in concert with the governor general of Moscow, the necessary measures in order that the Israelites above mentioned may gradually be sent away from Moscow and from the Province of Moscow into the zone assigned for their settlement.

(Foreign Relations, 1891, p. 743.)

Mr. Smith to Mr. Wharton.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 20, 1891.

SIR: As stated in my No. 114, I prolonged my stay in London while returning to this post for the purpose of meeting several gentlemen particularly conversant with the Jewish question as is now presented in Russia. I was especially anxious to see Mr. Arnold White, the representative and active manager of Baron Hirsch in his project for the colonization of the Jews. His visits and investigations in Russia in furtherance of this scheme had been made since my departure on leave; and indeed, the full development of the Russian policy had come within the same period, so that a conference with him gave promise of information which would be instructive and useful in dealing with the subject. I wished to learn the spirit with which he had been received, the attitude of the Government toward the movement for the relief of the proscribed people, the general result of his inquiries and the character of the measures contemplated. All of these points, it was manifest, would have a direct bearing upon the utility and efficacy of independent representations.

Mr. White informed me that he had been favorably received by the members of the Russian Government, and that every facility had been furnished to him for the prose-

cution of his inquiries and for the advancement of his work. He believes that the policy which treats the Hebrews as a people separate and distinct from the great body of the Russian subjects, to be proscribed and prohibited from the major portion of the Empire, and to be restricted within a limited area under special conditions and special laws, had been adopted as a deliberate and settled purpose and was not likely to be abandoned. At the same time he believed from his observations that the methods of its execution might be tempered and that the time allowed for the removal of those ordered away from their existing domiciles might be extended. He had traversed the parts of the Empire where the Jews are chiefly concentrated; he had examined into their conditions, attributes, and tendencies; and he was able to give a favorable report of their disposition and capabilities. Contrary to the representations made in some quarters, he insisted that the Jewish agricultural communities in Russia presented creditable and successful results, and that the Jewish occupants of land attested their inclination and their adaptablilty to agricultural pursuits. As the plan of colonization is based upon their willingness and capacity for farm labor, this was important testimony.

Mr. White found much distress in the Jewish settlements. The great body of the people were poor, and the limitation of their activities under the Russian laws made the struggle of life all the harder. The summary expulsion of thousands who were living outside of the legal pale of settlement and who were compelled to take their choice between locating in districts already overcrowded with those of their race or removing from the Empire altogether aggravated the hardships. As to the manner in which these arbitrary expulsions were enforced, little was said in detail. Mr. White had found himself exposed to some public censure in England because he had deprecated violent criticism and had indicated that some of the current reports of severities were exaggerated. He stated, in explanation of his attitude, that he regarded himself as acting in semidiplomatic capacity; that he wanted to accomplish practical results in which the concurrence and cooperation of the Government were vital; and that he did not wish to embarrass this work by arousing a suspicious and unfriendly feeling on the part of those to whom he must look for aid. In the promotion of this scheme of colonization he proposed to return to Russia and spend some months in organizing committees of emigration and in arranging the essential machinery of operation.

In some other quarters deeply concerned about the future of the Jews in Russia I find as hopeful a feeling respecting the practical fruits of Baron Hirsch's great project. In the munificent spirit which prompts it and in the great-hearted and large-minded nature of the conception it must command the sincere admiration of every friend of humanity. But magnificent as it is in its liberality and broad as it is in its scope, it is questioned whether it is equal to the exigencies of a problem which touches the welfare of 5,000,000 to 6,000,000 people. I was told in London that even at its best this project could not provide for more than 25,000 people a year. Without having undertaken any calculation, this seems to me a serious underestimate. Possibly, if applied only to those who could not help themselves at all, it would not be wide of the mark; but when self-help is united with philanthropic aid it must reach a much larger number. Even on the most favorable calculation, however, it must be limited in its operations. It is estimated that the increase of the Russian Jews is 3 per cent per annum, which, if there were no countervailing movement, would be an increase of 150,000 to 180,000 a year, and thus the problem would become constantly more difficult.

Against this steady augmentation there has been within the past few months a large outflow. The number of Russian Jew emigrants passing through Charlottenberg, and thence sailing from Bremen and Hamburg was in the two months of July and August, about 23,000. That is entirely independent of the exodus through Odessa and the southern parts of the Empire, which, however, is not supposed to be large.

The major portion of this emigration through Bremen and Hamburg goes to the United States. Germany does not permit the fugitives to remain within her domains, and English authorities do all that is within their power to direct them away from the British shores. The chief force of this movement of the Russian Jew has come within a comparatively short period. My dispatch No. 79 of February 28, reported a beginning of the withdrawal from Moscow and St. Petersburg, in apprehension of adverse measures. In my No. 89 sent on the eve of my departure on leave, the first known order of the year for the expulsion of a number of families from the two capitals were indicated. This was the open inauguration of a policy which has since assumed large proportions.

The laws under which the expulsion of Jews living outside of the pale of settlement was directed have not for a considerable period been rigorously applied, and were now practically and palpably enforced for the first time in many years. When last year it was currently rumored that harsh and proscriptive measures had been or were

about to be undertaken, this legation in common with others, reported that the Russian Government denied and repelled these allegations. This answer, it is believed, was strictly in accord with the fact as it then was. The movement for the renewal application of the old laws has taken practical form and force within a few months. I observe that the correspondent of the New York Times, who has been in Russia making a special investigation of the subject, indicates that its enforcement began in March. Information from other sources harmonizes with this statement. While before that time there had been some emigration, induced perhaps by the strenuous and precarious struggle for life in vocations which were limited and crowded, or by the apprehension of a severer policy, or by the harshness of irresponsible and subordinate officials, the great outflow which excites the attention and interest of the world did not commence until last spring. Since then it has gone on in a steady current, and it becomes a question of special importance to us whether this movement and the causes which lie behind it can be influenced and modified.

I am desirous of meeting Col. Weber, the chairman of the Emigration Commission, on the completion of his investigation in Russia, and on my arrival in London I opened correspondence with him for this purpose. But as he was moving about, the letter was delayed in reaching him, and it was only a few days before his departure that I received a message that he was obliged to sail for home before I could reach Berlin.

CHARLES EMORY SMITH.

(Foreign Relations, 1891, p. 744.)

Mr. Smith to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 24, 1891.

SIR: I availed myself yesterday of the first appropriate occasion which had offered since the return of the minister of foreign affairs from his extended absence abroad to have a conversation with him touching the later aspects under which the attitude and action of the Russian Government respecting the Hebrews of the Empire present themselves.

As indicated in previous dispatches, I have interested myself in the project of the Jewish Colonization Association, under the munificent inspiration and presidency of Baron Hirsh, for the colonization of Russian Hebrews in the Argentine Republic and in the disposition of the Russian Government toward it. There are two reasons for this special interest. In the first place, if the project meets with the sanction and cooperation of the Government it makes obligatory in good faith and presumably involves the amelioration of the measures against the Jews, so that their removal shall proceed only as fast as the association can make adequate provision for it. In the second place, it directs the emigration especially toward a destination where ample land has been purchased and special preparations have been made to receive it. I therefore introduced the conversation with Mr. de Giers by referring to this project and said to him that I desired to talk with him concerning this movement for the colonization of Russian Hebrews and the general questions connected with it. For his convenience, as well as my own, I had reduced the points of what I wished to say in writing, though preserving the conversational form, and, if agreeable to him, I would read them. He intimated his approval of this suggestion, and I thereupon read the memorandum, of which the following is a translation:

"I am greatly interested in the project of Baron Hirsh, of which Mr. Arnold White is the representative, for the colonization of Russian Hebrews. I am glad to hear that this project has met with a favorable reception on the part of the Government, and that practical measures are in train to carry it out. The subject is one of much concern for my country. The number of Russian Jews arriving in the United States has grown very greatly of late, and this fact naturally increases our interest in the question.

"I have made special inquiries and have found that during the two months of July and August last 25,000 Hebrews who went from Russia embarked at the two ports of Bremen and Hamburg. I do not know the exact figure of the succeeding months, but it must be in the same proportion, The greater part of these emigrants went to the United States. The number of Russian Jews landing in our country considerably exceeds 5,000 a month. To feel some solicitude as to this great influx of people who are destitute, and without preparations for the new conditions, is entirely natural. Up to this time the liberality of the American people, chiefly of the Hebrews of the United States, has been sufficient to provide this army of immigrants with what their immediate necessities demanded. But if the immigration should continue in the same proportion it would impose a burden beyond the resources of the benevolent societies.

To furnish shelter and work for such a number, constantly growing, would be difficult if not impossible. Besides this inundation would derange the conditions of labor and disturb its market.

"Your excellency will recall that, in presenting a dispatch from Mr. Blaine last spring, I had the honor to bring to your attention the concern of the Government and people of the United States on this subject. From that time the question has become aggravated by reason of the increase of immigrants of which I have spoken. During my visit to my country last summer, the President expressed his views to me and charged me to communicate them in suitable terms to the Government of the Emperor. He said to me that he had a sincere feeling of friendship for Russia, and cherished a deep sense of gratitude for the great service which Russia had rendered to the United States. When he felt it a duty to refer to the measures of Russia against the Jews, he expressed the desire to approach the question from the standpoint of a true friend who earnestly wished well to this country. It was, however, impossible to be indifferent to measures which compelled a large number of Russian Hebrews to seek a refuge in the United States. The effects of these measures were not limited to Russia, but are felt in our country, and apart from the considerations of humanity, these results make it a question of immediate interest to us. When the acts of one nation in expelling a class of its own people directly affect another friendly nation, the President felt that there is an obligation to take this effect into consideration. He hoped that the Government of Russia would find that its own best interests were served in mitigating the measures which entailed the practical banishment of so large a number of people; and if the Government felt unable to abandon these measures, the President hoped that it would at least be disposed to modify them, so that the removal might be extended over a long period. Thus the hardships would be diminished, and better provision could be made for those who seek an asylum in another land."

Mr. De Giers listened to the reading of this memorandum with much apparent interest and once or twice interrupted it with inquiries or suggestions. He thought the statements of the number of Russian Jews sailing from Hamburg and Bremen and landing in the United States must be exaggerated; but I assured him that they were derived from entirely authentic sources. He returned afterwards to the question of figures, still expressing his surprise, and apparently there was an implied recognition of the force of a representation based on such grounds. He said that there was no expulsion or banishment of Jews from the Empire. I had explained that while this was true in the literal sense of the term, the emigration was the effect of "measures which compelled so large a number to seek refuge in the United States," and I again indicated this point. Mr. De Giers responded that Christians as well as Jews had emigrated, and they had gone under the attraction of what he described that America is an El Dorado where they would all be well off. I replied that the great increase in the Jewish emigration to which I referred had come at the same time with the expulsion of Jews from Moscow and other places within the Empire.

Mr. De Giers remarked, in conclusion, that the subject came within the province of the Minister of the Interior, and he would confer with that minister. He asked me for a copy of the verbal note which I had read, and of which a translation is given above, and I have to-day sent it to him. I inclose a copy of the form in which it was placed in his hands.

I have, etc., CHARLES EMORY SMITH.

(Foreign Relations, 1892, p. 363.)

Mr. Smith to Mr. Blaine.

LEGATION OF THE UNITED STATES,
St. Petersburg, April 12, 1892.

SIR: The prospect of an enlarged emigration of Jews from Russia during the coming spring and summer has been a subject of consideration here and concern abroad. It has been given out through the Jewish Aid Committee of Berlin that an outflow of 400,000 was to be expected. It is probable that, even without restrictions, these would have proved to be exaggerated figures, but at the same time, with the effect of the Russian policy concerning the Jews on the one hand, and with the influence of the public reports of colonization projects on the other, there was every reason to anticipate an increased movement.

The representative of Baron Hirsh, Mr. Arnold White, has been here for some weeks, partly for the purpose of advancing the measures essential to the scheme of colonization and partly with the object of checking this large immediate emigration. It was naturally felt that, if great numbers of Hebrews should pour out now before the colo-

nies in Argentine are prepared for their reception, and while their reception elsewhere was open to question, it would prejudice and embarrass the whole effort on their behalf. I was advised of these considerations, and in response to questions put to me I felt warranted by the recent legislation and attitude of our Government and people in concurring in the counsel against premature emigration. No action on my part was asked. There was simply a request to know whether authority would be given for a reference to the American Legation as approving the advice against an excessive immediate exodus.

It was proposed to send out messengers who should spread this advice, and, though some obstacles were interposed, it is believed that the plan was at least in part carried out.

Recently a factor of great importance has intervened in the matter. You have doubtless learned through the public prints that the German Government has issued orders closing the frontier against the entrance of Russian Jewish emigrants. I am advised that it is not improbable, though not yet certain, that the Austro-Hungarian Government will take the same course. It is stated in defense of this action that this class of emigrants are not received in England, and as objection is made as to their entrance into the United States, they are thrown back and become a charge upon Germany. Should the new order be stringently enforced, it will effectually prevent a large outflow before the plans of colonization shall be perfected, but it is supposed that in many cases means of evading it will be found.

All this leaves it uncertain whether the emigration of Russian Jews will be as large or larger than last year. Probably the most intelligent opinion is that it will be somewhat, but not much larger, but this is only conjecture at the best.

CHARLES EMORY SMITH.

(Foreign Relations, 1892, p. 379.)

Mr. Foster to Mr. Wurts.

DEPARTMENT OF STATE,
Washington, August 23, 1892.

SIR: I inclose herewith a statement with accompanying certificates made to this department by Mrs. Jennie Goldstein, of New York City, concerning the alleged arrest and imprisonment of her husband, Jacob Goldstein, at Kharkov, Russia, on the ground that he "is amenable to militia duties."

The records of the department confirm this statement of Messrs. C. B. Richard & Co., that Mr. Goldstein received a passport, No. 35320, from this department. It was issued February 23, 1892, and sent to Messrs. Richard & Co., to be forwarded. From Mr. Goldstein's application it appears that he was born at Tszelecz, in Russia, July 4, 1862; emigrated to this country in 1879, and was naturalized before the superior court of the city of New York, October 8, 1888, his certificate of naturalization having been duly produced with his application for a passport.

I will thank you to apply in the proper quarter for information concerning the reported arrest of Mr. Goldstein and the nature of the charges against him. Should his case fall within the purview of the standing instructions of your legation, you will take such action as may be necessary and proper to protect Mr. Goldstein's interest.

I am, etc.,

JOHN W. FOSTER.

(Foreign Relations, 1893, p. 526.)

Mrs. Goldstein to Mr. Foster.

NEW YORK, *August 17, 1892.*

HONORABLE SIR: On February 23, 1892, one Jacob Goldstein left this port by steamer *Spree* of the Bremen line. On the same day, the said Jacob Goldstein paid to Messrs. C. B. Richard & Co., bankers, No. 61 Broadway, New York City, certain moneys to procure for the said Jacob Goldstein a passport, and at the same time delivered to them his citizenship papers, all of which will more fully appear by the certificate of the said Messrs. Richard & Co., herewith inclosed; that said passport was issued to the said Jacob Goldstein, and the same was, together with his citizenship papers, sent to the said Jacob Goldstein by the said Messrs. Richard & Co., and as I have been informed the same was received by the said Jacob Goldstein upon his

arrival on the other side; that a few days after his arrival he, the said "Jacob Goldstein," an American citizen, "was arrested by some Government (officer) at Kharkov Russia," and his passport and citizenship papers taken away from him, and still is detained at said place.

As I have been informed, the cause of the detention of the said Jacob Goldstein is that the Russian Government claims that the said Jacob Goldstein is amenable to militia duties.

Inclosed please find two photographs of the said Jacob Goldstein for the purpose of identification, also a letter from the Hon. Charles Smith, the present alderman of the eighth assembly district, in which the said Jacob Goldstein has resided for over 12 years, also a letter from the lodge that the said Jacob Goldstein is a member of.

I am the wife of the said Jacob Goldstein and reside with the children, of which I am the mother and the said Jacob Goldstein the father, at No. 43 Delancey Street, New York City.

By giving this your earliest attention,

I remain, etc.,

JENNIE GOLDSTEIN.

N. B.—Please address all communications to Mr. Philip Gratz, jr., No. 333 Grand Street, New York City, and oblige, etc.,

JENNIE GOLDSTEIN.

(Foreign Relations, 1893, pp. 526–527.)

Mr. Smith to Mr. Crawford.

NEW YORK CITY, *August 11, 1892.*

Hon. UNITED STATES CONSUL TO RUSSIA:

DEAR SIR: Mr. Jacob Goldstein, a citizen of the United States, has been arrested in Kharkov, Russia, and is illegally detained there. He has his passport with him.

He has a wife and children and mother here (New York City). You will perceive by the foregoing that he is illegally detained there, and is a breach of the treaty between these United States and Russia. He has been living in my district for over 12 years, and I have known him to be a good and loyal citizen. You will kindly look into this matter and secure the release of said Jacob Goldstein. By so doing you will confer a personal favor on,

Yours, very truly, etc.,

CHARLES SMITH,
Alderman for Eighth Election District of the City of New York.

(Foreign Relations, 1893, p. 527.)

NEW YORK, *August 11, 1892.*

Hon. UNITED STATES CONSUL TO KHARKOV, RUSSIA.

DEAR SIR: This is to certify that Jacob Goldstein, who is illegally detained in your city, is a member of our congregation (the Congregation Adosholum Uriemtzer), of New York City. He is a citizen of these United States, and we have known him to be a good and loyal citizen. He has a mother, wife, and children here.

Yours, etc.,

A. WEINSTEIN, *President.*
N. BEAURTTIES, *Secretary.*

(Foreign Relations, 1893, p. 527.)

NEW YORK, *August 12, 1892.*

To whom it may concern:

This is to certify that Jacob Goldstein purchased of us, on February 20, 1892, one steerage ticket to Bremen per steamer *Spree*, sailing February 23, and on the same day paid us the amount for a United States passport, which we procured for him from Washington and mailed to him poste restante Bremen.

C. B. RICHARD & Co.

(Foreign Relations, 1892, p. 527.)

Mr. Wurts to Mr. Foster.

LEGATION OF THE UNITED STATES,
St. Petersburg, September 7, 1892.

SIR: Your instruction, No. 212, of the 23d ultimo, on the subject of the reported arrest and detention at Kharkov of Jacob Goldstein was duly received, and I at once represented the case to the Russian foreign office with the request that an investigation be made and information thereof be furnished me.

In all probability the cause of the arrest will prove to be as surmised, that Goldstein "is amenable to militia (that is, military) duties."

As you are aware, this legation has had to deal with a number of cases of this character, the result of which has, if my memory does not betray me, been the same, a refusal of the Russian Government to waive its right to punish a former subject on his venturing again within its jurisdiction for offense committed prior to his naturalization as the citizen or subject of a foreign state. The arguments used by us have not made the slightest impression here, and seem to be rather exhausted. I shall of course do all in my power with them, but must respectfully beg the department, if possible, to furnish me with some new ones, in preparation for the response to the Russian Government that Goldstein is charged with and liable to punishment for escaping abroad when close upon the age for military service, in order to evade that service by becoming an American citizen.

The penalty for this offense is exile to Siberia, but while this Government has closely adhered to the principle involved in cases such as this is supposed to be, it has never been applied to an American citizen. The last case of the kind, which is on file at the department, was that of Kempinski, in 1889, the result of which was that no concession was made by the Russian Government, and Kempinski was condemned, but released on his successful petition for the clemency of the Emperor. It might be well for the friends of Goldstein to advise him to prepare to follow Kempinski's example.

I have, etc.,

GEORGE W. WURTS,
Chargé d'Affaires ad interim.

(Foreign Relations, 1893, pp. 527–528.)

Mr. Wurts to Mr. Foster.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 17, 1892.

SIR: Referring to my dispatch No. 239, of the 7th ultimo, in relation to the case of the alleged citizen of the United States, Jacob Goldstein, held in arrest at Kharkov, I have the honor to transmit to you herewith a copy and translation of a note from the imperial foreign office in response to my communication on the subject, by which it will be seen that there is a conflict of testimony as to the identity of the person in question, the Russian authorities affirming that he is not Jacob Goldstein, but Yankel Zlotow, and that he is accused of coming to Russia with a false passport.

Mr. Heenan, our consul at Odessa, has sent me copies of his correspondence in this case with the authorities at Kharkov, which, it appears, has also been transmitted tp the department. In this correspondence Goldstein states that he is a native of Germany, that he emigrated when very young to the United States, and that he came to Kharkov on business last June. He does not state whether this was his first visit or not to Russia. The inspector of the prison points out, however, in his letter to Mr. Heenan that Goldstein speaks Russian fluently, which is a very suspicious circumstance. Awaiting further instructions from you in the matter,

I am, etc.,

GEORGE W. WURTS,
Chargé d'Affaires ad interim.

(Foreign Relations, 1893, p. 528.)

Mr. Chichkine to Mr. Wurts.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF THE HOME RELATIONS,
St. Petersburg, October 3/15, 1892.

Mr. CHARGÉ D'AFFAIRES: You addressed yourself to the imperial ministry in order to know what reasons had determined the imperial authorities to arrest, at Kharkov, Mr. Goldstein.

I have, in consequence, the honor to inform you that the individual in question who pretends to be an American citizen, is accused, by the terms of article 977 of the penal code, of having arrived in Russia with a false passport, his real name being Yankel Zlotow.

Accept, etc.,

CHICHKINE.

(Foreign Relations, 1893, p. 529.)

Mr. Foster to Mr. White.

DEPARTMENT OF STATE,
Washington, November 7, 1892.

SIR: I have received Mr. Wurts's No. 249, of October 17 last, in regard to the case of Jacob Goldstein, an American citizen, imprisoned at Harkov (Kharkov).

The statements of the reply of the Russian foreign office appear to be a repetition of the allegations made by the authorities of Harkov in their communication to the United States consul at Odessa, dated September 11/28, 1892, copy of which was sent to your legation with the other correspondence by Mr. Heenan.

It is noted that, by the admission of the Russian authorities themselves, Mr. Goldstein's passport and certificate of naturalization have been sent to New York for investigation.

This proceeding naturally occasions some surprise, and is only explicable on the conjecture that the Russian authorities are ignorant of the Federal character of these papers. The Government of the United States is the sole judge of the competence and validity of the passport which it issues and of the evidence of national citizenship of which it is granted. It does not pertain to the authorities of New York to examine the validity of a United States passport.

If any question were raised as to the identity of the bearer or the legality of his naturalization this Government would be happy to investigate any offered testimony throwing doubt on the case, upon the request to that end, through the proper channel. So far as concerns any charge against the prisoner of fraudulent impersonation of the Jacob Goldstein to whom the passport purports to have been issued it is proper to say that the evidence now furnished to this department states that Jacob Goldstein's mother, wife, and children reside in New York City, while the mother of Yankel Zlotow, the fugitive with whom Goldstein is confounded, still resides in Harkov, and it would seem fails to identify her alleged son.

The application upon which passport No. 35320 was granted to Jacob Goldstein, or Zheikop Goldschtein, as he signs his name, avers his birth at Cszelecz, in Russia, on or about July 4, 1862, and his naturalization, before the superior court of the city of New York, October 8, 1888. The place of birth so given conflicts with Mr. Goldstein's allegation of German birth made in his petition addressed to Mr. Heenan, who will be directed to make inquiry in this regard.

The name Cszelecz appears to be Hungarian or Galician, but the town is not identified on any map in this department.

I am, etc.,

JOHN W. FOSTER.

(Foreign Relations, 1893, p. 529.)

Mr. Foster to Mr. White.

DEPARTMENT OF STATE,
Washington, November 26, 1892.

SIR: Referring to my instructions No. 12, of the 7th instant, in relation to the case of Jacob Goldstein, detained at Harkov on charges reported in Mr. Wurts's No. 249, of October 17 last, I have now to inform you that Baron Schilling, Russian chargé d'affaires ad interim, called, informally, this morning, on the Second Assistant Secretary, and exhibited to him Mr. Goldstein's passport, No. 35320, issued by this department February 23, 1892, with a view to ascertaining its genuineness. Baron Schilling at the same time produced the original certificate of naturalization before the superior court of the city of New York, October 8, 1888, with a view to making like inquiry in regard thereto.

Mr. Adee advised Baron Schilling that official response would be made to such inquiries if the request to that end were addressed by the legation to the Secretary of

State. As a matter of fact, the passport appeared to be genuine, and the certificate of naturalization to agree with the department's record, upon which the passport had been issued, but he, Mr. Adee, could not competently declare those facts.

It thus appears that instead of the passport being "sent to New York for investigation," the Russian legation here has been intrusted with the inquiry.

No previous instance is recalled of such a proceeding on the part of the Russian Government. I should regret were it to form a precedent. The passports issued by the Secretary of State, under the seal of this department, being prima facie evidence of the facts therein certified, the purpose for which they are issued would be defeated were foreign authorities at liberty to disregard them until certified anew by the issuing authority. Their examination and visé is properly the function of the legation of the United States in the country where the bearer may chance to be.

In several recent instances, notably in Austria and Turkey, this Government has had occasion to remonstrate against the inconvenience and restriction of personal liberty to which the holders of United States passports have been subjected by the dilatory action of the local authorities detaining them and sending their passports to the American legation for attestation. In the present case, by forwarding the passport and certificate of naturalization to this country for a like purpose, the holder, Mr. Goldstein, would seem to have been needlessly restrained of his liberty for several weeks longer than he would have been had application been seasonably made to your legation for the desired information. Moreover, the occasion for the inquiry is not apparent, for the ascertainment of the genuineness of the passport and certificate of naturalization granted to Jacob Goldstein neither proves nor disproves his alleged identity with Yankel Zlotow, of Harkov, nor establishes whether the present holder of these papers himself acquired them lawfully as Jacob Goldstein or is falsely impersonating the individual to whom they were issued.

As already intimated in my instruction No. 12, of the 7th instant, this Government stands ready to cooperate in the investigation of any case where reasonable evidence of the fraudulent use of a United States passport may be forthcoming. You may say to the minister of foreign affairs that where there may be good ground to believe that a passport has been forged or tampered with, or is held by another than the person to whom it was lawfully issued, your legation will cheerfully render assistance so far as an examination of the authority of the document is concerned, and will, in case of need, refer the matter to this department, but that otherwise it is the just expectation of the Government that its passports will be duly respected abroad as prima facie evidence of the facts therein stated, and that its validity is only to be traversed by competent proof.

For your further information I inclose a copy of Mr. Goldstein's application to this department for a passport.

I am, etc., JOHN W. FOSTER.

(Foreign Relation, 1892, pp. 530–531.)

Mr. White to Mr. Foster.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 15, 1892.

SIR: Referring to your dispatch No. 12, of November 7, regarding the submission of Jacob Goldstein's passport to the Russian legation at Washington rather than to the American legation here, I went the day after receiving it to the foreign office and called the attention of Mr. Chichkine to the subject. He explained that the matter came up during the interim between Mr. Smith's departure and my arrival, and that it was therefore thought best to refer it directly to Washington.

Upon this I resented your view of the delay thus caused, and of the injury involved, not merely in the case of the person claiming to be Jacob Goldstein, but in other cases should this novel action of the Russian Government be considered as a precedent.

He received my statement in a very satisfactory manner, assuring me that in future such cases would be referred to the American Legation here and not to the State Department at Washington.

I have, etc., ANDREW D. WHITE.

(Foreign Relations, 1893, p. 531.)

Mr. White to Mr. Foster.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 16, 1892.

SIR: As already stated in my dispatch No. 21, relative to the passport of Jacob Goldstein, I confined myself in my interview with Mr. Chichkine at the foreign office to the point I was instructed to urge, namely, the injury done or likely to be done by forwarding passports taken from suspected persons to the Russian legation at Washington rather than to the American legation at St. Petersburg.

The question regarding the rights and present position of the person detained at Kharkov and claiming to be Goldstein, I thought it not best to raise until I could secure additional facts.

This, indeed, is the only course which promises anything for the person now detained at Kharkov, claiming to be Jacob Goldstein, but declared by the local authorities to be Yankel Zlotow, who has thus far avoided military service.

As the case now stands it presents the following difficulties, which, as the case is new to me, I trust that you will excuse my recapitulating.

In his letter to our consul at Odessa, dated July 20–August 1, 1892, the person under arrest gives the country of his birth as Germany, but his application for a passport six months before the applicant swore that he was born in Russia.

In the letter above referred to the person under arrest also says that he is unable to fix the year of his arrival in America, because he was taken there when a child; but the person who applied for and received the Goldstein passport swore that he went to America in July, 1879, at the age of 17 years.

In addition to these troublesome discrepancies in the two statements claiming to be made by the same man only a few months apart, the letter from the prison authorities at Kharkov to our consul at Odessa, dated September 16–28, 1892, alleges that the person under arrest has been detected in feigning such knowledge or want of knowledge of the Russian and other languages as might give color to a fraudulent impersonation. And the letter also conveys the idea that the Russian authorities have no doubt as to the identity of the detained person with Yankel Zlotow.

As an application for his release to the foreign office would, if made at present, certainly be wrecked upon the above facts and allegations, I at once telegraphed Consul Heenan, at Odessa, asking him to wire me any new information he might possess on the subject or that he might be able to secure by wire or mail from Kharkov. I also wrote him fully authorizing him to send to Kharkov a discreet and careful man to make inquiries and report on the case, suggesting the name of a gentleman especially recommended to me by our consul general at St. Petersburg, but leaving Consul Heenan free to choose any other person whom he might think more fit.

I suggested in my letter that very careful examination be made as to the testimony identifying the person in possession of the Goldstein passport as Yankel Zlotow, and especially as to the statement of the person arrested that Zlotow's mother failed to recognize the said arrested person as her son, and also as to the probability or possibility of collusion between the mother of Zlotow and the arrested person.

To my telegram I have just received answer by wire that the consul has no new facts in the case, but that he is telegraphing Kharkov.

From my letter and from the special messenger sent to Kharkov I hope to secure some facts which will enable me to present the matter at the foreign office here with more hope of a favorable result than the facts at present before me enable me to anticipate.

I shall continue to give constant attention to the matter in the hope of remedying any injustice to an American citizen on one hand and of preventing any prostitution of American citizenship on the other.

I have, etc., ANDREW D. WHITE.

(Foreign Relations, 1893, p. 531–532.)

Mr. White to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 19, 1893.

SIR: Referring to my No. 22 and previous dispatches relating to Jacob Goldstein, I have the honor to state that a letter from Mr. Consul Heenan, at Odessa, informs me that the local court at Kharkov has decided in Goldstein's favor, but that he "took French leave" last December, has not been since heard of, and that his present whereabouts are unknown.

I am, sir, etc., ANDREW D. WHITE.

(Foreign Relations, 1893, p. 541.)

Mr. White to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 19, 1893.

SIR: I have the honor to submit the cases of David Waldenberg, and of his son Jacob, based on documents received this morning. They apply for new passports under the following circumstances:

It appears that David, the father, went to the United States 42 years ago; that after five years' residence he was naturalized, and that he finally left the United States in 1864. He has now resided in Poland nearly 30 years, and it is clear from the accompanying papers that he has no intention of returning to resume the rights and duties of an American citizen.

As to his son Jacob, the documents show that he was born in Poland in July, 1872; that he has never been in America, and, although he swears, in making his claim for citizenship, that he intends to "return" to the United States within two years, his letter shows clearly that he has no such intention.

Further light is thrown upon the young man's case by the fact that although he has finished a course of study in a German university, and affixes to his name the title of doctor of philosophy, he does not appear to have prepared himself for exercising the rights and duties of an American citizen by learning the English language; both his letter and that of his father are sent to me in a translation from Warsaw.

It will be observed that the father is not molested. Our consul, Mr. Rawicz, speaks of him in very high terms as "an honest business man, well liked in the community, and really a square and upright man."

As to the son Jacob, whom the authorities propose to exclude from Russia, the main difficulty in the case doubtless comes partly from the general tendency to discriminate against Jews, but mainly from the question arising as regards his evasion of military service.

I have already asked through the foreign office that the family of Mr. Waldenberg, including his sons Isidore and Jacob and his daughter Emily, shall be allowed to remain with him, stating the case as strongly as possible in their favor, asking that this permission may be made permanent or that as regards Jacob it may be continued at least two years, he having sworn that within that time he intends to take up his residence in the United States.

I need hardly say that in so far as any action taken against Waldenberg and his family may be actuated by prejudice of race or religion, my whole nature revolts at it, and my sympathies are deeply with him, but the question which presents itself is whether there is not here an attempted prostitution of American citizenship, an attempt to secure its immunities and privileges without the discharge of its duties.

The Russians know as well as we that were this worthy man a German and had he returned to the country of his nativity at the date of his return here he would, over 25 years ago, have lost his right to claim American citizenship; they also know the other weak points in the case, and especially that the animus revertendi is conspicuously absent from it.

This being the case, although my predecessor, Mr. Smith, granted passports to both these claimants two years ago, I have decided, while asking the ministry of foreign affairs to use its good offices in their favor as above stated, at the same time to ask the department for instructions.

I have, etc.,

ANDREW D. WHITE.

(Foreign Relations, 1893, pp. 541–542.)

Mr. White to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 22, 1893.

SIR: On May 10 I received a letter from one Joseph Glowacki, dated at Kempen, Province of Posen, Germany, making a statement to the effect that being an American citizen in the employ of a manufacturing establishment at Gzerstockowa, Government of Petikow, Poland, he had been summarily expelled on eight hours' notice by the local police; thrown into prison and kept there four days, from which he was only released on his signing an agreement not to return to Russia under pain of banishment to Siberia, and then taken over the Austrian frontier and set free. He declares that the only reason assigned for the treatment he has received is a charge made by a drunken employee, who had been discharged from the factory, to the effect that he

had spoken disrespectfully of the Emperor. This he says that he had never done and that all the other workmen would testify that they had never heard him utter a disloyal sentiment. He further says that he has been obliged to leave behind him his aged mother, of whom he is the only support.

The letter is well written in fairly good English, and while of course I could know nothing as yet of the other side of the case, it raised in my mind so strong a presumption in his favor that I at once addressed a note to the foreign office urging the earliest possible examination of the case and the young man's speedy restoration to his situation and to the support of his mother, if the facts are found as stated. At the same time I wrote to Glowacki, informing him as to the steps which had been taken here, but took the liberty of suggesting the question whether in case the matter presents any doubtful features and the decision upon it is delayed he might not well reenter into the enjoyment of his rights and the discharge of his duties as an American citizen within the country of his adoption. The fact that his letter is so well expressed and that his employers think so well of him that they are holding his place open for him would seem to indicate abilities on which he could rely to secure him a situation quite as well remunerated in the United States.

The department shall be informed regarding any further developments of interest in the case.

I am, etc., ANDREW D. WHITE.

(Foreign Relations, 1893, pp. 542–543.)

Mr. Gresham to Mr. White.

DEPARTMENT OF STATE,
Washington, June 3, 1893.

SIR: I have to acknowledge the receipt of your No. 97, of the 19th ultimo, reporting that Jacob Goldstein had been acquitted by the local court at Kharkov, but that he had, in December last, escaped, and had not since been heard of.

The case thus appears to be removed from further consideration.

I am, sir, etc.,

W. Q. GRESHAM.

(Foreign Relations, 1893, p. 543.)

Mr. Gresham to Mr. White.

DEPARTMENT OF STATE,
Washington, June 6, 1893.

SIR: I have to acknowledge the receipt of your No. 99, of the 19th ultimo, in regard to the application for passports made in behalf of David Waldenberg and Jacob, his son.

On the facts as stated, all presumption of conservation of right to continued protection as a naturalized citizen of the United States is conspicuously negatived in the case of the father, David Waldenberg, he having resumed and maintained permanent domicile in the country of his original allegiance; as for the eldest son, Jacob, his right to protection after coming of age has not been established by conclusive evidence of intention to come to the United States after attaining the age of 21 years in July next. If he makes his purpose in that regard clear by taking the necessary steps to effect it by actual removal to the United States, here to dwell and perform the duties incumbent on a good citizen, he may have a passport to come to the United States, not otherwise.

The dates of the births of the other children, Isidore and Emily, do not appear in your dispatch, but, inferring that they are minors, they should have the benefit of the doubt, and be secured recognition of the status of American citizenship under section 1993, Revised Statutes, until they come of age and become competent to exercise the option of domicile which belongs to them.

In this connection, I inclose for your information copy of my instruction No. 84, of April 28 last, to the minister to Japan, in regard to the applications for passports of Alex and Basil Powers, both of Russian origin.

I am, sir, etc., W. Q. GRESHAM.

(Foreign Relations, 1893, pp. 543–554.)

Mr. Webb to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 25, 1893.

SIR: Referring to dispatch No. 100 of this legation, I have the honor to inform you that a note bearing date June 29, from the imperial foreign office, informed this legation that Joseph Glowacki woudl be permitted to return to the Empire, but could not again inhabit the village of district Chenstockova, from which he had been expelled. This concession was as much as could be asked for, it being hardly to be expected that the return in triumph of one of the proscribed class (Glowacki is a Hebrew) to the scene whence he had been summarily ejected would be permitted, in view of the bad effect it would have on the morale of the community.

A few days ago, however, I received a letter from Joseph Glowacki, dated from a point in Germany, near the frontier, in which he states that after five days of continual effort to enter Russia, during which time he was kept constantly moving from station to station along the frontier, his passport was taken from him, the permit thereon inscribed under orders from the minister of the interior blotted out, and he was once more ejected from the Empire. His letter stated, as before, that his mother, 78 years of age, of whom he was the sole support, was ill and in great want, and he only asked to be able to reach her in order to take her away from Russia once and for all.

I immediately addressed a note on the subject to the imperial foreign office and in a personal interview with Mr. Chichkine received assurance that instant attention would be paid to the note and permission for Glowacki to cross the frontier accorded, unless new and unfavorable evidence in his case had come to light.

I shall inform the department of further developments in the case.

I am, etc.,

G. CREIGHTON WEBB,
Chargé d'Affaires ad Interim.

(Foreign Regulations, 1893, p. 544–545.)

Mr. Webb to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, September 5, 1893.

SIR: Referring to dispatches Nos. 100 and 129 of this legation regarding the case of Joseph Glowacki, an American citizen, I have the honor to state that the matter is at last satisfactorily settled.

You will remember that Glowacki, after having been expelled from the Empire, received permission, through the intercessions of Mr. White, to return to Russia, and that at the frontier, while seeking to avail himself of this permission, the order inscribed on his passport by which only he could be enabled to do so was erased by the officer in command at that post.

To-day, in response to several communications, and as the result of several interviews, and after a delay of only two weeks from the time that the matter was brought to its notice, I received from the foreign office full permission for Glowacki to reenter Russia, together with a handsome expression of regret that the misunderstanding at the frontier had taken place. I have issued a new passport to Glowacki, which has been duly indorsed at the foreign office, and this would seem to close the case.

I am, etc.,

G. CREIGHTON WEBB,
Chargé d'Affaires ad interim.

Mr. Adee to Mr. White.

DEPARTMENT OF STATE,
Washington, September 21, 1893.

SIR: I have to acknowledge the receipt of Mr. Webb's No. 134, of the 5th instant, reporting that Mr. Joseph Glowacki has been again granted permission to enter Russia.

The department is gratified to learn that the case is thus closed.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

(Foreign Relations, 1893, p. 545.)

Mr. Wurts to Mr. Wharton.

LEGATION OF THE UNITED STATES,
St. Petersburg, June 16, 1892.

SIR: I have the honor to inclose you herewith a translation of the law adopted by the Imperial Government regarding the emigration of Hebrews from Russia under the project of Baron Hirsch, which received the supreme sanction of the Emperor on the 8–20th ultimo.

I have, etc.,

GEORGE W. WURTS,
Chargé d'Affaires ad interim.

(Foreign Relations, 1892, p. 387.)

[Inclosure.]

STATUTES OR REGULATIONS FOR THE COMMITTEES ON EMIGRATION.

1. The committees on emigration instituted by the present statutes have for their object to contribute to the emigration of Russian Israelites by their transplantation in other countries.

2. There will be created a central committee at St. Petersburg, which will be assisted in various cities of the Empire by local committees, whose formation will proceed successively, following the need and the previous consent of the minister of the interior. The central committee, as well as the local committees, shall work under the supervision of the Government, which can suppress and annul all their arrangements and their activity, with all the consequences, if the minister of the interior finds it necessary.

3. The central committee is under the jurisdiction of the ministry of the interior, and is placed under the supervision of the department of police. It is composed of seven to eleven members designated with the consent of the minister of the interior, by the president of the Jewish Colonization Association. The minister of the interior can at any time require the resignation of those members of the central committee whose activity does not respond to the views of the Government.

4. In case of the death, or the retirement for any reason, of a member of the committee, his successor will be designated in the manner indicated in the preceeding article.

5. The central committee will choose from among its members a president, vice president, treasurer, and secretary. These appointments are made for one year. The officers are eligible to reelection.

6. Three members at least of the committee designated for one year by their colleagues and reeligible form an executive committee charged with the management of affairs and the necessary relations with the Government in everything which concerns the enterprise, as well as with the direction of railroads for the free transportaion of emigrants to the frontier.

7. The divisions of the central committee are determined by an absolute majority of the members present. The presence of at least four members of this committee is necessary for the validity of its deliberations. In case of an equal division of votes, the vote of the president decides. In case of the absence of the vice president, the oldest member present will preside.

8. The decisions of the central committee are put in force only after the authorization of the minister of the interior. If the minister, within a month of the reception of the decisions, shall not have notified the central committee of their annulment, they can be put into execution. The central committee must submit every year to the minister of the interior a report of what has been done.

9. The central committee, being in constant relations with the Jewish Colonization Association, should keep the latter informed of its work and transmit to the said association the proces verbal of the sessions, as well as the sessions of the executive committee. The central committee receives the proces verbal of the local committees.

10. The president of the Jewish Colonization Association can at any time charge one or two delegates to verify upon the ground the work of the committees and to assist at their sessions. The designation of these delegates must be submitted to the previous approbation of the minister of the interior.

11. The services of the members of the committee are gratuitous.

12. The central committee organizes its bureaus according to the needs of the service.

13. Before the commencement of operations of the central committee, the Jewish Colonization Association shall lodge 100,000 rubles in the State Bank in St. Petersburg,

in deposit for the minister of the interior. Out of this capital shall be defrayed, by order of the minister of the interior, all expenses which may be incurred in connection with the return and repatriation in Russia, on account of the Government, of Jews who shall have emigrated with the assistance of the above committee. The sum expended out of the above 100,000 rubles shall be completed by the Jewish Colonization Association, on the demand of the minister of the interior, when the available balance shall not exceed 25,000 rubles. The interest on the above capital constitutes the property of the association, and shall be payable to its authorized agents.

14. The local committees are under the supervision of the governors or persons who are designated by them for this purpose.

15. All of the arrangements of the local committees are brought to the knowledge of the governors, who can arrest their execution while submitting them to the approbation and authorization of the minister of the interior.

16. The members of the local committees are named by the central committee for a term and under conditions to be determined by it. The nominations must be submitted to the previous approbation of the minister of the interior.

The minister of the interior can at any time require the resignation of members of the local committees whose activity does not respond to the views of the Government.

17. In places where the elements necessary for the formation of a local committee are not found, the central committee can name one or two delegates charged with the functions of the local committees. The method of the designation, as well as the revocation of these delegates, is subject to the provisions of articles 13–15.

18. The services of members of the local committees are gratuitous. The delegates mentioned in the preceding article can, in case of need, receive compensation.

19. If a committee is formed in a province, its jurisdiction covers the whole extent of the province. In case of the formation of several committees or of the designation of two or more delegates in the same province, the range of the activity of each of them will be determined by the governor.

20. The central committee, as well as the local committees, are authorized to receive donations and legacies in view of the object defined by article 1 of the present statutes, but on condition that they must be in ready money or in paper bearing interest.

21. The central committee and the local committee shall have seals bearing the name of the committee with the inscription "Colonization of Russian Israelites."

22. Employment in the commissions gives to Israelites no right or privilege in respect to the choice of their place of habitation.

23. The direction of the Jewish Colonization Association will indicate successively to the central committee the number of emigrants who can be sent to the frontier in a specific period, and the central committee will divide this number between the different localities in accord with the Jewish Colonization Association.

24. The local committees, as well as the delegates of the central committee, will prepare for each person desiring to emigrate a sheet conforming to the model appended, which is subject to modification.

No. —— ——— Month. ——— Year.

I. *Head of family.*

(*a*) First and surname.
(*b*) Age.
(*c*) Place of inscription.
(*d*) Military conscription district in which registered.
(*e*) Present place of abode.
(*f*) Former abode and time of residence therein.
(*g*) Occupation.
(*h*) Has such occupation latterly served as a means of livelihood.
(*i*) Amount of yearly earnings.
(*j*) Means for traveling and purchase of land.
(*k*) Amount of money.
(*l*) What relations or acquaintances he may have in Argentine Republic or other non-European countries.
(*m*) Their names.

II. *Wife.*

Name, age, place of birth, occupation, how long married.

III. *Children.*

(*a*) Number of children, boys and girls.
(*b*) Name, age, place of birth, occupation of each child.
(*c*) Military conscription district in which male children are registered.

IV.

Can the parents and children read and write.

V.

Do other members of the family live with and are supported by the head of the family?

II. *Remarks.*

(*a*) Respecting the answers supplied and particularly with regard to occupation.
(*b*) Respecting the mental and physical capacities of each member of the family, condition of their health, etc.
(*c*) The special aptitudes of a given person must be pointed out, and whether the person desirous of emigrating is capable of agricultural labor.
(*d*) Whether the head of the family and his sons have performed military service.
Signature of head of family.
Signature of member of commission or of authorized agent.
Remarks of government officials or institutions.

25. Two copies of the sheet are prepared, one in white and the other in blue. The two copies bear the same number, and the correctness of the information given is certified by the competent committee or delegates.

26. The sheets prepared according to the preceding article are simultaneously sent by the committees or delegates; the blue to the governor of the place, the white to the central committee, which transmits them to the direction of the Jewish Colonization Association.

27. The direction of the Jewish Colonization Association, after having examined the white sheets above mentioned, returns them to the central committee and the latter presents to the department of police, in the original, those of the sheets which relate to the individuals indicated for emigration. The sheets must bear the stamp showing that they have been examined by the association.

28. The white sheets relating to Jews of military age, indicated for emigration, must be presented, comformably to the preceding article, to the department of police at the latest on the 1st of March of the year in which these persons are obliged to present themselves for the draft.

29. Simultaneously with the presentation to the department of police of the white sheets the central committee communicates to the local committees or to its delegates the list of sheets with the indication of their numbers.

30. The local committees, as well as the delegates, fulfill the formalities required by the authorities concerning the free departure from the Empire of the individuals indicated for emigration, and after having received from the governors the permits to leave charge themselves with the care of forwarding the emigrants to the frontier within a period which shall not exceed one month from the receipt of the said permits.

31. The list of emigrants must be sent by the local committees, eight days at least before their departure, to the central committee or to the persons who will be charged by the Jewish Colonization Association to receive the emigrants at the frontier.

32. The committee as well as the delegates are required to inform the local police in sufficient time of each considerable removal of emigrants and of the frontier toward which they are directed.

33. The Jewish Colonization Association as well as the committees of emigration are authorized to bring to the knowledge of the Israelite population that the Israelites who shall have emigrated without the consent of the committees which work under the supervision of the Government can not count upon any aid either on the part of the said association or on the part of the committees. The notices as well as the appeals can be published and distributed only after the previous authorization of the minister of the interior.

34. The Israelites possessed of the necessary means to emigrate and to establish themselves abroad without the pecuniary assistance of the committees and of the Jewish Colonization Association can nevertheless be invited to address themselves to the agency of the committees, which will facilitate the obtaining of the necessary documents and accomplish for them the formalities demanded.

(Foreign Relations, 1892, pp. 387–389.)

Mr. Wharton to Mr. White.

DEPARTMENT OF STATE,
Washington, February 28, 1893.

SIR: I transmit herewith for your information copies of correspondence recently exchanged with the Russian minister here in relation to the refusal of the consul general of Russia at New York to attach his visé to the passport of Mrs. Minnie Lerin, a naturalized citizen of the United States, because she is of the Jewish faith.

The avowal of Prince Cantacuzene's note that the action of the Russian consul general is under instructions from his Government which interdict the authentication of passports of foreign Jews, presents a question embarrassing as it is painful when arising with a nation for whose Government and people such intimate friendship has so long been manifested by the American people.

It is apt to be inferred from Prince Cantacuzene's note that the declaration of Mrs. Lerin's religious profession was elicited from her by some interrogative process on the part of the Imperial consul general.

It is not constitutionally within the power of this Government or of any of its authorities to apply a religious test in qualification of equal rights of all citizens of the United States; and it is therefore impossible to acquiesce in the application of such a test, within the jurisdiction of the United States, by agents of a foreign power, to the impairment of the rights of any American citizen or in derogation of the certificate of this Government to the fact of such citizenship.

On several occasions in the past this Government has made temperate but earnest remonstrance against the examination into the religious faith of American citizens by the Russian authorities in Russia. The asserted right of territorial sovereignty over all sojourners in the Empire, to our deep regret, outweighed our friendly protests.

His Majesty's Government, however, surely can not expect the United States to acquiesce in the assumption of a religious inquisitorial function within our own borders by a foreign agency in a manner so repugnant to the national sense.

I can not but surmise that some strange misapprehension exists in this regard in the mind of His Majesty's Government which your accustomed ability and tact may perhaps explain and perhaps remove.

It does not appear needful to my present purpose to consider whether a special phase may not be given to the question by the circumstance that Mrs. Lerin was born in Russia. Mr. Foster's note of the 16th instant to Prince Cantacuzene indicates a disposition to consider and discuss an explanation based on the former political status of the individual. The reply of the minister announces that with certain unspecified exceptions the prohibition in question applies to "foreign Jews." The sweeping character of this statement suggests inadvertence, and confirms my assumption that the matter is misapprehended by the Russian Government or by its agents in the United States. For this reason I have contented myself with a simple acknowledgment of Prince Cantucuzene's note, under the reserve necessarily imposed upon this Government by the Constitution and the laws, and by its just expectation that his passports shall be respected as authoritative evidence of citizenship.

In this connection you may conveniently consult Mr. Bayard's instruction to Mr. Wurts's No. 140, of September 11, 1888, in relation to a previous refusal of the Russian consul general to authenticate legal documents for use in Russia when applied for by a Jew. On this general subject you may examine Mr. Evarts's No. 55 to Mr. Foster (March 3, 1881) and Mr. Blaine's No. 87 (July 29, 1881).

WILLIAM F. WHARTON, *Acting Secretary.*

(Foreign Relations, 1893, p. 536.)

Mr. White to Mr. Gresham.

[Extract.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 11, 1893.

SIR: Referring to Mr. Wharton's dispatch No. 60, of February 28, 1893, in regard to the case of Mrs. Mannie Lerin, a naturalized citizen of the United States born in Russia, to whom a visé was refused at the Russian consulate general in New York, I have taken no action for the reason that there seems little chance at present of securing anything either in behalf of the person above named or of the doctrine for which our Government has contended so long in vain. While ready to seize any favorable

opportunity to bring up the subject and to urge views favorable to the doctrine which we would naturally like to see established, I have thought it wise to await the return of the minister of foreign affairs, M. de Giers, who can speak and act with an authority on subjects of this kind, which the acting minister can hardly be expected to possess.

I have, etc., ANDREW D. WHITE.

(Foreign Relations, 1893, p. 538.)

Mr. Foster to Prince Cantacuzene.

DEPARTMENT OF STATE,
Washington, February 16, 1893.

MY DEAR SIR: The department is advised that the consul of Russia at New York has peremptorily refused to visé a passport, No. 46250, issued on the 6th instant to Mannie Lerin, a duly naturalized citizen of the United States, born at Odessa, Russia. Miss Lerin explains that she desires to visit her parents in Russia, and the action of the consul, of course, precludes all possibility of her doing so.

It is inferred that the consul bases his action upon the general instructions of his Government, allowing him to decline to visé a passport of a former subject of Russia who had left his native land without permission to escape military service. If this theory is correct, it is not perceived how this condition can apply to a woman, and I shall be glad to learn, if you please, the reason of the consul's action in this particular instance.

Awaiting, etc., JOHN W. FOSTER.

(Foreign Relations, 1893, p. 547.)

Prince Cantacuzene to Mr. Adee.

LEGATION OF RUSSIA,
Washington, February 20, 1893.

DEAR SIR: In reply to your note of February 16, concerning the refusal of our consul general in New York to visé the passport of Mrs. (not Miss) Mannie Lerin, a naturalized citizen of the United States, I beg to say that it appears from the information I just received from our consul general that the said Mrs. Lerin declared herself to be a Jewess.

In the present circumstance Mr. Olarovosky acted according to the instructions of his Government interdicting to visé passports of foreign Jews, with the exception of certain cases, under which Mrs. Lerin can not be placed.

Accept, etc., CANTACUZENE.

(Foreign Relations, 1893, p. 548.)

Mr. Wharton to Prince Cantacuzene.

DEPARTMENT OF STATE,
Washington, February 28, 1893.

SIR: I have had the honor to receive your note of the 20th instant, in reply to Mr. Foster's of the 16th, concerning the refusal of the Russian consul general at New York to visé the United States passport of Mrs. Minnie Lerin.

In view of your statement that the visé in question was refused because Mrs. Lerin declared herself to be a "Jewess," and in accordance with the instructions of the Imperial Government "interdicting to visé passports of foreign Jews, with the exception of certain cases under which Mrs. Lerin can not be placed," I limit myself for the present to acknowledge your communication under the reserve necessarily imposed upon the Government by its Constitution and laws and by its just expectation that its certification of the character of American citizenship will be respected.

Accept, sir, etc.,

WILLIAM F. WHARTON, *Acting Secretary.*

(Foreign Relations, 1893, p. 548.)

Mr. Gresham to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 17, 1893.

Representations made here that Russian Government is about to enforce edict against Jews which will result in a large emigration of destitute people of that class to the United States.

If there is foundation for what we hear, you will please ascertain and report as speedily as possible the terms of the edict and its probable effect.

GRESHAM.

(Foreign Relations, 1894, p. 525.)

Mr. White to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 6, 1893.

SIR: Your telegram, presumably of May 17, was received on the morning of May 18 and answered at once.

Since telegraphing you I have made additional inquiries with reference to your question and am persuaded that there has been no new edict banishing Israelites from Poland, as was stated in some of the papers of western Europe; but for some time past the old edicts and regulations against them have been enforced in various parts of the Empire with more and more severity.

Soon after my arrival at this post it was rumored that there was to be some mitigation in the treatment of them, but the hopes based on this rumor have grown less and less, and it is now clear that the tendency is all in the direction of not only excluding Israelites more rigorously than ever from parts of the Empire where they were formerly allowed on sufferance, but to make life more and more difficult for them in those parts of the Empire where they have been allowed to live for many generations.

As you are doubtless aware, there are about 5,000,000 Israelites in Russia, forming, as it is claimed, more than half of the entire Jewish race, and these are packed together in the cities and villages of what was formerly Poland and adjacent Governments, in a belt extending along the western borders from northwest to southeast, but which for many years has been drawn back from the frontier about 40 miles under the necessity, as it is claimed, imposed by the tendency of the Israelites in that region to conduct smuggling operations. In other parts of the Empire they have only been allowed to reside as a matter of exceptional favor. This alleged favor, under the more kindly reign of Alexander II, was largely developed and matured into a sort of quasi right in the case of certain classes, such as Israelites who have been admitted into the learned professions or have taken a university degree or have received the rights of merchants of the first or second guild, paying the heavy fees required in such cases.

Certain skilled artisans have also been allowed to reside in certain towns outside the Jewish pale; but their privileges are very uncertain, liable to revocation at any time, and have in recent years been greatly diminished. Besides this, certain Israelites are allowed by special permits to reside as clerks in sundry establishments, but under the most uncertain tenure. This tenure can be understood by a case which occurred here about a month since.

At that time died an eminent Israelite of St. Petersburg, a Mr. ———, who had distinguished himself by rescuing certain great companies from ruin by his integrity and skill in various large operations and by the fact that, while he made large and constant gains for those interested in these companies and operations, he laid up for himself only a modest competence. He had in his employ a large number of Jewish clerks, and it is now regarded here as a matter of fact that at the expiration of their passes, say in a few months, all of them must leave St. Petersburg.

The treatment of the Israelites, whether good or evil, is not based entirely upon any one ukase or statute. There are said to be in the vast jungle of the laws of the Empire more than 1,000 decrees and statutes relating to them, besides innumerable circulars, open or secret, regulations, restrictions, extensions, and temporary arrangements, general, special, and local, forming such a tangled growth that probably no human being can say what the law as a whole is—least of all can a Jew in any province have any knowledge of his rights.

From time to time, and especially during the reign of Alexander II, who showed himself more kind to them than any other sovereign had ever been, many of them were

allowed to leave this overcrowded territory, and, at least, were not hindered from coming into territory and towns which, strictly speaking, they were not considered as entitled to enter; but for some time past this residence on sufferance has been rendered more and more difficult. Details of the treatment to which they have been subjected may be found in the report made by Mr. J. C. Weber and his associate commissioners, entitled "Report of the Commissioners of Immigration upon the causes which incite immigration to the United States," Government Printing Office. I must confess that when I first read this report its statements seemed to me exaggerated, or, at least, overcolored, but it is with very great regret that I say that this is no longer my opinion. Not only is great severity exercised as regards the main body of Israelites here, but it is from time to time brought to bear with especial force upon those returning to Russia from abroad. The case was recently brought to my notice of a Jewish woman who, having gone abroad, was stopped on her return at a frontier station, and, at last accounts, had been there three days, hoping that some members of her family in Russia might be able to do something to enable her to rejoin them.

Israelites of the humbler class find it more and more difficult to reenter Russia, and this fact will explain the case of Mrs. Minnie Lerin, referred to in Mr. Wharton's dispatch No. 60 (Foreign Relations, 1893, p. 536), as being refused a visé at the Russian consulate general in New York, and it will also throw light on various other cases we have had in which the legation has been able to secure mitigation in the application of the rules.

On this latter point we have been successful in obtaining such mitigation in cases of many Israelites who have been subjected to annoyance by overzealous local authorities.

It may appear strange that any nation should wish to expel a people who, in other parts of the world, have amassed so much wealth. The fact is that but a very small fraction of them in Russia are wealthy; few even in comfortable circumstances. The vast majority of them are in poverty and a very considerable part in misery—just on the border of starvation.

Nearly 40 years ago, when, as an attaché of this legation, I was for 7 days and nights on the outside of a post coach between St. Petersburg and Warsaw—there being then no railway to the frontier—I had ample opportunity to see something of these Israelites and of the region in which they live. They exist for the most part in squalor, obliged to resort to almost anything that offers, in order to keep soul and body together. Even the best of them were treated with contempt by the lowest of the pure Russians. I myself saw two Israelites, evidently of the wealthier class and richly clad, who had ventured into the inclosure in front of the posthouse to look at the coach in which I was, lashed with a coach whip and driven out of the inclosure with blows by one of the postilions—evidently a serf.

A very few millionaire Israelites are to be found among the merchants of the first guild in some of the larger cities, but there is no such proportion of wealthy men among them as in the United States, Great Britain, France, and Germany. In the smaller towns, in some of which they form the majority of the residents, their poverty is so abject that they drag each other down, making frequently a ruinous competition with each other in such branches of business as they are allowed to pursue. This is now even more the case than ever before, since recent regulations have swept the Israelites living in many rural districts into the towns.

A case was a few days since mentioned to me in which a small town of 8,000 or 10,000 inhabitants had recently received into its population nearly 6,000 Israelites from the surrounding country.

The restrictions are by no means confined to residence; they extend into every field of activity. Even in the parts of the Empire where the Israelites are most free they are not allowed to hold property in land, or to take a mortgage on land, or to farm land, and of late they have been even, to a large extent, prevented from living on farms, and have been thrown back into the cities and villages.

As to other occupations, Jewish manufacturers have at times, even under the present reign, been crippled by laws or regulations forbidding them to employ Christian workmen, but these are understood to be not now in force. They are relics of the old legislation which in the interest of the servant's soul forbade a Jew to employ a Christian servant under pain of death, and which, in a mitigated form, remained on the statute book until 1865, when it was abolished by Alexander II.

There are also many restrictions upon the professions considered more honorable. A few Israelites are allowed to become engineers, and they are allowed to hold 5 per cent of the positions of army surgeons, but no more; and this in spite of the fact that from the middle ages until now their race has been recognized as having a peculiar aptitude for medicine and surgery. As a rule, also, they are debarred from charging any public functions of importance, and even as to lesser functions a Jew can not be elected mayor of a village or even member of its council.

Not more than one man in ten of those summoned to do jury duty can be a Jew, and even in the cities within the pale, where the Jews form the great majority of the population, they can not hold more than one-third of the places on a municipal council.

Perhaps the most painful of the restrictions upon them is in regard to the education of their children. The world over, as is well known, the Israelites will make sacrifices to educate their sons and daughters, such as are not made, save in exceptional cases, by any other people. They are, as is universally recognized, a very gifted people, but no matter how gifted a young Israelite may be his chances of receiving an education are small.

In regions where they are most numerous only 10 per cent of the scholars in high schools and universities are allowed to be Jews, but in many cases the number allowed them is but 5 per cent, and in St. Petersburg and Moscow only 3 per cent. Out of 75 young Israelites who applied for admission to the University of Dorpat in 1887 only 7 were allowed to enter. A few days since the case was brought to my notice of a well-to-do Israelite who wished to educate his son, whom he considered especially gifted, but could not obtain permission to educate him in St. Petersburg, and was obliged to be satisfied with the permission to enter him at one of the small provincial universities remote from this capital.

To account for this particular restriction it is urged that if freely allowed to receive an advanced education, they would swarm in the high schools, universities, and learned professions; and, as a proof of this, the fact is mentioned that some time since, in the absence of restrictions, at Odessa from 50 to 70 per cent of the scholars in sundry Russian colleges were Jews.

As to religious restrictions, the general policy pursued seems to an unprejudiced observer from any other country so illogical as to be incomprehensible. On one hand great powers are given to Jewish rabbis and religious authorities. They are allowed in the districts where the Israelites mainly live to form a sort of state within the state, with power to impose taxes upon their coreligionists and to give their regulations virtually the force of law. On the other hand, efforts of zealous orthodox Christians to proselyte Israelites, which must provoke much bitterness, are allowed and even favored. The proselytes once brought within the orthodox Russian fold, no matter by what means, any resumption of the old religion by them is treated as a crime.

Recent cases have occurred where Jews who have been thus converted and who have afterwards attended the synagogue have been brought before the courts.

So, too, in regard to religious instruction it would seem to an unprejudiced observer, wishing well both to Russia and to the Israelites, that the first thing to do would be to substitute instruction in science, general literature, and in technical branches for that which is so strongly complained of by Russians generally—the instruction in the Talmud and Jewish theology. But this is just what is not done, and, indeed, as above stated, not allowed.

The whole system at present in vogue is calculated to make Talmudic and theological schools, which are so constantly complained of as the nurseries and hotbeds of anti-Russian and anti-Christian fanaticism, the only schools accessible to the great majority of gifted young Israelites.

As to recent interferences of which accounts have been published in the English newspapers, and especially as to a statement that a very large number of Jewish children were early during the present year taken from their parents in one of the southern governments of Russia and put into monastic schools under charge of orthodox priests, this statement having been brought especially to my notice by letters addressed to me as the representative of the United States, I communicated with our consuls in the regions referred to, and also obtained information from other trustworthy sources, and the conclusion at which I arrived was that the statement was untrue. It probably had its origin in the fact that much anxiety has recently been shown by high officials, and especially ecclesiastics, to promote education in which orthodox religious instruction holds a very important part.

In justification of all these restrictions various claims are made. First of all, it is claimed that the Jews lend money to peasants and others at enormous rates of interest. But it is pointed out in answer to this that sundry bankers and individuals in parts of Russia where no Jews are permitted have made loans at much higher rate than Jews have ever ventured to do. While it is allowed that 100 per cent a year has not infrequently been taken by the Israelites, there seems to be no doubt of the fact that from 300 to 800 per cent, and even more sometimes, has been taken by Christians.

This statement seems incredible, but it is unimpeachable. In a general way it is supported by a recent report of a Russian official to Mr. Sagonof; and a leading journal of St. Petersburg, published under strict censorship, has recently given cases, with names and dates, where a rate higher than the highest above named was paid by Russian peasants to Christian money lenders.

Those inclined to lenity toward the Jews point to the fact that none of them would dare to take any such rates of interest as Christians may freely demand; that to do so would raise against the Israelites in their neighborhood storms which they could not resist, and it is argued that, as their desire for gain is restricted in this way, their presence in any part of Russia tends to diminish the rate of interest, rather than to increase it. On the other hand, it is claimed that they will not work at agriculture, and, indeed, they will do no sort of manual labor which they can avoid.

As to the first of these charges, the fact is dwelt upon, which has so impressed Mr. McKenzie Wallace and other travelers, that the Jewish agricultural colonies founded by Alexander I in 1810 and by Nicholas I in 1840 have not done well.

But in answer it may be stated as a simple matter of history that, having been originally an agricultural people, they have been made what they are by ages of persecution, which have driven them into the occupations to which they are now so generally devoted; that in Russia they have for generations been incapacitated for agricultural work by such restrictions as those above referred to; that even if they are allowed here and there to till the land, they are not allowed, in the parts of the Empire which they most inhabit, to buy or even farm it, and thus the greatest incentive to labor is taken away.

As to other branches of manual labor, simply as a matter of fact, there are very large bodies of Jewish artisans in Poland, numbering in the aggregate about one-half of the entire adult male Israelite population. Almost every branch of manual labor is represented among them, and well represented. As stone masons they have an especially high reputation, and it is generally conceded that in sobriety, capacity, and attention to work they are fully equal to their Christian rivals.

Complaint is also made that they, as far as possible, avoid military service. This is doubtless true, but the reasons for it are evident. For the Jewish soldier there is no chance of promotion, and when he retires from the service he is, as a rule, subject to the same restrictions and inflictions as others of his race. In spite of this fact the number of them in the conscription of 1886 was over 40,000.

I find everywhere, in discussing this subject, a complaint that the Israelites, wherever they are allowed to exist, get the better of the Russian peasant. The difficulty is that the life of the Israelite is marked by sobriety, self-denial, and foresight; and whatever may be the kindly qualities ascribed to the Russian peasant—and there are many—these qualities are rarely, if ever, mentioned among them.

It is also urged against the Israelites in Russia that they are not patriotic, but in view of the policy pursued regarding them the wonder is that any human being should expect them to be patriotic.

There is also frequent complaint against Jewish fanaticism, and recently collections of extracts from the Talmud have been published here in western Europe, and even in the United States, to show that Israelites are educated in bitter and undying hate of Christians, and taught not only to despise but to despoil them; and it is insisted that the vast majority of Israelites in Russia have, by ages of this kind of instruction and by the simple laws of heredity, been made beasts of prey with claws and teeth especially sharp, and that the peasant must be protected from them.

Lately this charge has been strongly reiterated, a book having appeared here in which the original Hebrew of the worst Talmudic passages, with translations of them, are placed in parallel columns. It seems to be forgotten that the Israelites would be more than human if such passages did not occur in their sacred writings. While some of those passages antedate the establishment of Christianity, most of them have been the result of fervor under oppression and of the appeal to the vengeance of Jehovah in times of persecution; and it would be but just to set against them the more kindly passages, especially the broad and humane teachings which are so frequent in the same writings.

An eminently practical course would be to consider the development of Judaism in the United States, Great Britain, and other countries, where undeniably those darker features of the Talmud have been more and more blotted out from Jewish teaching and the unfortunate side of Talmudic influence more and more weakened.

But this charge of Talmudic fanaticism is constantly made, and Russians, to show that there is no hatred of Israelites as such, point to the fact that the Koraites, who are non-Talmudic, have always been treated with especial kindness.

To this the answer would seem to be that the Koraites are free from fanaticism because they have been so long kindly treated, and that this same freedom and kindness which has made them unobjectionable to Russian patriotism would, in time, probably render the great mass of Israelites equally so.

There is no need of argument either, in the light of history or of common sense, to prove that these millions of Israelites in Russia are not to be rendered less fanatical by the treatment to which they are at present subjected.

To prove that the more bitter utterances in the Talmud complained of do not necessarily lead Israelites to hate Christians, and indeed to show that the teachings which the Israelites receive in countries where they have more freedom lead them to a broad philanthropy of the highest type, I have been accustomed, in discussing the subject with Russians, to point to such examples of the truest love for human kind as those shown by Judah Tours in the United States, Sir Moses Montefiore in England, Nathan de Rothschild in Austria, James de Rothschild and Baron Hirsch in France, and multitudes of other cases, citing especially the fact of the extensive charities carried on by Israelites in all countries, and the significant circumstance that the first considerable contribution from the United States to the Russian famine fund came from a Jewish synagogue in California, with the request that in the use of it no discrimination should be made between Jews and Christians. Cases like these would seem to do away effectually with the idea that Jewish teachings necessarily inculcate hostility to people of other religious beliefs.

There is also a charge closely connected with the foregoing which undoubtedly has much to do with the present severe reaction. It is constantly repeated that, in spite of the fact that the late Emperor Alexander II had shown himself more kindly toward the Israelites than had any of his predecessors—relaxing the old rules as to residence, occupation, education, and the like, and was sure, had he lived, to go much further in the same direction, probably as far as breaking down a mass of existing barriers and throwing open vast regions never before accessible to them—the proportion of Israelites implicated in the various movements against him, especially in the Nihilistic movement, and in the final plot which led to his assassination, was far beyond the numerical proportion of their race in Russia to the entire population. This feeling was certainly at the bottom of the cruel persecutions of the Israelites by the peasants just after the death of the late Emperor, and has no less certainly much to do with the prejudices of the various personages of high influence as well as of the vast masses of the people which still exist.

The remarkable reaction at present dominant in Russia is undoubtedly in great measure, if not entirely, the result of the assassination of Alexander II; it is a mere truism to say that this event was the most unfortunate in its effects on well-ordered progress that has occurred in this Empire; but, so far as the Israelites are concerned, the facts at the bottom of this charge against them can be accounted for, without imputing anything to the race at large, by the mass of bitterness stored up during ages of oppression not only in Russia but elsewhere. The matter complained of must certainly be considered as exceptional, for it can not hide the greater fact that the Jews have always shown themselves especially grateful to such rulers as have mitigated their condition or even shown a kindly regard for them.

I was myself, as minister at Berlin, cognizant of innumerable evidences of gratitude and love shown by the entire Jewish population toward the Crown Prince, afterwards the Emperor Frederick III, who, when Jew-baiting was in fashion, and patronized by many persons in high positions, set himself quietly but firmly against it. And this reminiscence leads me to another in regard to the oft-repeated charge that the Israelite is incapable of patriotism, is a mere beast of prey, and makes common cause with those of his race engaged in sucking out the substance of the nation where he happens to be. It was my good fortune to know personally several Israelites at Berlin who as members of the Imperial Parliament showed their patriotism by casting away all hopes of political advancement and resisting certain financial claims in which some of their coreligionists, as well as some leading and very influential Christians, were deeply engaged. There is nothing nobler in recent parliamentary history than the career of such Israelites as Lasker and Bamberger during that period, and at this moment no sane man in Germany hesitates to ascribe to that Israelite Simson all the higher qualities required in his great office, that of chief justice in the highest court of the German Empire.

The same broad and humane characteristics have been shown among the vast majority of Israelites eminent in science, philosophy, literature, and the arts. Long before the Israelite Spinoza wrought his own continued life into the history of philosophy, this was noted, and it has continued to be noted in Russia. During my former residence here there were two eminent representatives of the proscribed race in the highest scientific circles, and they were especially patriotic and broad in their sympathies; and to-day the greatest of Russian sculptors, Antokolski, an Israelite, has thrown into his work not only more genius, but also more of profoundly patriotic Russian feeling, than has any other sculptor this period. He has revived more, evidently, than has any other sculptor, the devotion of Russians to their greatest men in times past, and whenever the project of erecting at St. Petersburg a worthy monument to the late Emporer shall be carried out, there is no competent judge who will not acknowledge that he is the man in all Russia to embody in marble or bronze the

gratitude of the nation. This is no mere personal opinion of my own, for when recently a critic based an article against Antokolski's work, evidently upon grounds of race antipathy, a brilliant young author, of one of the oldest and most thoroughly Russian families in the Empire, Prince Sergius Wolkonsky, wrote a most cogent refutation of the attack. It is also charged that in Russia, and, indeed, throughout Europe, an undue proportion of Jews have been prominent in movements generally known as "socialistic," and such men as Ferdinand Lasalle and Karl Marx, are referred to.

When this statement has been made in my hearing I have met it by counter statement of a fact which seems to me to result from the freedom allowed in the United States, namely, the fact that at the meeting of the American Social Science Association in 1891, in which a discussion took place involving the very basis of the existing social system, and in which the leading representatives of both sides in the United States were most fully represented, the argument which was generally agreed to be the most effective against the revolutionary and antisocial forces was made by a young Israelite, Prof. Seligman, of Columbia University, in the city of New York. Here, again, results are mistaken for causes; the attitude complained of in the Israelites is clearly the result of the oppression of their race.

But there is one charge which it is perhaps my duty to say that I have never heard made against Israelites even by Russians most opposed to them—the charge that they are to be found in undue or even in any considerable proportions among inebriates or criminals. The simplest reason for this exception in their favor is found in the official statistics, which show that, in the governments where they are most numerous, diseases and crimes resulting from the consumption of alcoholic drinks are least numerous, and that where the number of Israelites is greatest the consumption of spirits is least. It is also well known, as a matter of general observation, that the Russian Israelites are, as a rule, sober, and that crimes among them are comparatively infrequent.

Yet, if in any country we might expect alcoholism to be greatly developed among them it would be in this Empire, where their misery is so great and the temptation to drown it in intoxicating beverages so constant; and if in any country we might expect crime to be developed largely among them it would be in this Empire, where, crowded together as they are, the struggle for existence is so bitter. Their survival under it can only be accounted for by their superior thrift and sobriety.

I would be a mistake to suppose that religious hatred or even deeply religious feeling is a main factor in this question. The average Russian believes that all outside the orthodox Greek Church are lost; but he does not hate them on that account, and though there has been of late years, during the present reaction, an increase of pressure upon various Christian organizations outside the established church, this has been undeniably from political rather than religious reasons; it has been part of the "Russifying process," which is at present the temporary fashion.

The rule in Russia has always been toleration, though limited by an arrangement which seems to a stranger very peculiar. In St. Petersburg, for example, there are churches for nearly all the recognized forms of Christian belief, as well as synagogues for Hebrews, and at least one Mohammedan mosque; but the only proselytism allowed is that between themselves and from them to the established church; in other words, the Greek Church may proselyte from is unorthodox within certain limits, each of them can make converts from the Greek Church.

This regulation seems rather the result, on the whole, of organized indifference than of zeal, its main purpose being undoubtedly to keep down any troublesome religious fervor. The great body of the Russian peasantry, when left to themselves, seem to be remarkably free from any spirit of fanatical hostility toward religious systems differing from their own, and even from the desire to make proselytes. Mr. Mackenzie Wallace, in his admirable book, after showing that the orthodox Russian and the Mohommedan Tartar live in various communities in perfect peace with each other, details a conversation with a Russian peasant, in which the latter told him that just as God gave the Tartar a darker skin, so he gave him a different religion; and this feeling of indifference, when the peasants are not excited by zealots on one side or the other, seems to prevail toward the Roman Catholics in Poland and the Protestants in the Baltic provinces and Finland. While some priests have undoubtedly done much to create a more zealous feeling, it was especially noted during the fierce persecutions of the Jews early in the present reign that in several cases the orthodox village priests not only gave shelter to Israelites seeking to escape harm, but exerted themselves to put an end to the persecutions. So, too, during the past few days the papers have contained a statement that a priest very widely known and highly esteemed, to whom miraculous powers are quite generally attributed—Father John, of Cronstadt—has sent some of the charity money, of which he is almoner, to certain Jewish orphanages under the control of Israelites.

The whole present condition of things is rather the outcome of a great complicated mass of causes, involving racial antipathies, remembrances of financial servitude, vague inherited prejudices, with myths and legends like those of the Middle Ages.

But, whatever may be the origin of the feeling toward the Israelites, the practical fact remains that the present policy regarding them is driving them out of the country in great masses. The German papers speak of large numbers seeking the United States and the Argentine Republic—but especially the former—through the northern ports of that Empire, and, as I write, the Russian papers state that eight steamers loaded with them are just about leaving Libau for America.

It is, of course, said in regard to these emigrants that they have not been ordered out of the country, that they can stay in Russia if they like, and that Russia has simply exercised her right to manage her own internal affairs in her own way. But it is none the less true that the increasing severity in the enforcement of the regulations regarding the Israelites is the main, if not the only, cause of this exodus. In order that this question may be understood in its relations to the present condition of political opinion in the Empire, there is need to make some additional statement.

There has never been a time probably when such a feeling of isolation from the rest of the world and aversion to foreign influence of every sort have prevailed in Russia as at present. It is shared by the great majority, from the highest to the lowest, and it is echoed in the press. Russia has been during the last 10 years in a great reactionary period, which now seems to be culminating in the attempted "Russification" of the Empire, involving such measures as increasing pressure upon Poland, increasing interference with the Baltic Provinces and the German colonies, in the talk of constitutional changes in Finland, in the substitution of Russian for German names of various western towns, in the steadily increasing provisions for strengthening the orthodox Russian Church against all other religious organizations, is the outcry made by various papers in favor of such proposals as that for transferring the university at Dorpat into the Muscovite regions of the interior, for changing the name of St. Petersburg, and for every sort of Russifying process which the most imaginative can devise.

In this present reaction, connected as it is with bitter disappointment over the defeat of Russian aspirations in the Berlin treaty and since, reforms which were formerly universally considered honorable and desirable for Russia are now regarded with aversion; the controlling feeling is for "Russification."

Peter the Great is now very largely regarded by Russians as having taken a wrong road, and, while monuments are erected to Alexander II, his services as emancipator of the serfs are rarely alluded to, and the day formerly observed in remembrance of the emancipation has ceased to be publicly noticed. This reaction shows itself in general literature, in paintings, in sculpture, in architecture, in everything. Any discussion regarding a change in the present condition of things is met by the reply that strangers do not understand Russian questions, and that these questions are complicated historically, politically, economically, and socially to such a degree that none but those having personal experience can understand them. If the matter is still further pressed and the good effects of a different policy in the United States, Great Britain, and elsewhere are referred to, it is answered that in those countries a totally different state of things exists, and that no arguments can be made from them to Russia. Any continuance of the discussion is generally met by the statement that Russian questions are largely misrepresented by the press of western Europe; that there is a systematic propaganda against Russia in England, Germany, Austria, and Italy; that England does or allows worse things in her Irish evictions and in her opium traffic, and the United States in lynch-law proceedings and treatment of the Chinese than any done or allowed in Russia; that, in short, Russia is competent to take charge of he own internal policy, and that other powers will do well to mind their own business This feeling is closely akin to that which was shown sometimes in the United States before the civil toward foreign comments upon our own "peculiar institution," when representations by such philanthropists as the Duchess of Sutherland, George Thompson, M. P., and others were indignantly repelled.

This condition of opinion and the actions resulting from it are so extreme that it naturally occurs to one who has observed Russian history that a reaction can not be long deferred.

The progress of Russia thus far has been mainly by a series of reactions. These have sometimes come with surprising suddenness. In view of that which took place when the transition was made from the policy of restriction followed by the Emperor Nicholas to the broadly liberal policy adopted by Alexander II, of which, being connected with this legation at that time, I was a witness, a reaction at present seems by no means impossible or even improbable. It is by no means necessary that a change of reign should take place. A transition might be occasioned, as others have been, by the rise of some strong personality bringing to bear upon the dominant opinion

the undoubted fact that the present system of repression toward the Israelites is from every point of view a failure and that it is doing incalculable harm to Russia.

This dispatch ought not, perhaps, to close without an apology for its length; the subject is one of great importance, and it has seemed to me a duty to furnish the department, in answer to the Secretary's question, with as full a report regarding the present stage in the evolution of the matter concerned as my opportunities have enabled me to make.

I am, etc., ANDREW D. WHITE.

(Foreign Relations, 1894, p. 535.)

Mr. Gresham to Mr. Webb.

DEPARTMENT OF STATE,
Washington, August 28, 1893.

SIR: I have received and read with attention Mr. White's dispatch No. 119, of the 6th ultimo, in relation to the present condition of the Israelites in Russia and to the reported enforcement of repressive edicts against them, calculated to result in an increased emigration of destitute people of that class to the United States.

The thoroughness with which the minister has answered my telegraphic inquiry of May 18 is commended.

The subject is receiving the President's earnest consideration. It has been for some time evident that the measures adopted by the Imperial Government against the Jews, although professedly a domestic policy directly affecting the subjects of the Czar, were calculated to injuriously affect the American people by abruptly forcing upon our shores a numerous class of immigrants destitute of resources and unfitted in many important respects for absorption into our body politic. The continued enforcement of such harsh measures, necessarily forcing upon us large numbers of degraded and undesirable persons who must, in great measure, be supported, can not be regarded as consistent with the friendship which the Russian Government has long professed for the United States.

I am, etc., W. Q. GRESHAM.

(Foreign Relations, 1894, p. 535.)

Mr. Webb to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, September 3, 1893.

SIR: I have the honor to send you herein the substance of a circular on the subject of the expulsion of the Jews that has just appeared. It does not refer, I am informed, to Jews established in the trades—tailors, shoemakers, carpenters, etc.—but to clerks, employees in banks, bank directors, apothecaries and their assistants, doctors, etc. Freely rendered, the circular is as follows: The ministry of the interior has decided as follows relative to the question of expelling the Jews from localities where they are unlawfully residing in the interest of said Jews and of peasants with whom they have business relations:

The last term for the expulsion of Jews from towns to localities granted them is extended to June 1, 1894.

Governors of provinces are informed that in no case is this term to be extended longer than June 1, 1895. This term refers to special cases, which must be reported to the ministry and receive sanction.

Special attention is also called to passports of Jews. No Jews will be allowed to remain in provincial towns excepting as travelers residing temporarily, as cases shown in section 151 of the statutes on passports.

Expulsion of Jews from the military districts of the Caucasus.

The minister of war has ordered the authorities of the Verskoi and Kouban districts to expel all Jews from the Kouban district within a month's notice, dating from the month of August.

I am, etc., G. CREIGHTON WEBB,
Chargé d' Affaires ad interim.

(Foreign Relations, 1894, p. 536.)

Mr. White to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 15, 1893.

SIR: Although the newspapers of western Europe inform us that local authorities in the southern part of the Empire have recently driven out a considerable number of Israelites, no corroboration of the report comes from any other source, nor is this legation receiving any of those complaints and calls for intervention which have generally accompanied increased pressure upon the Jewish community.

On the other hand, sundry Russian newspapers of late mention the fact that the Government is issuing tickets from various places within the Jewish pale in Poland to the frontier at specially reduced rates, but these journals significantly add that the reduction only operates in one direction—that is, on trains going westward, and not on return tickets.

This, of course, indicates that Jewish immigration is still desired by the authorities, and is likely to be somewhat increased.

I am, etc., ANDREW D. WHITE.

(Foreign Relations, 1894, p. 536.)

Mr. Gresham to Mr. White.

DEPARTMENT OF STATE,
Washington, December 22, 1893.

SIR: I am in receipt of a letter from the Secretary of the Treasury of the 20th instant calling my attention to the following United Press dispatch from their correspondent in St. Petersburg:

"LONDON, *December 17.*

"The United Press correspondent in St. Petersburg says that the Jewish emigrants now at frontier stations, on their way to America, if officially certified to be destitute, will be provided by Russian consuls at the ports of departure with sums necessary to insure their admission into the United States."

Mr. Carlisle requests that you be instructed to verify the foregoing report, and, should it be found to be authentic, to inform the Russian Government that assisted immigrants of the class mentioned will not be permitted to land in the United States. You will give the matter your prompt and careful attention.

I am, etc., W. Q. GRESHAM.

(Foreign Relations, 1894, p. 537.)

Mr. White to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, February 13, 1894.

SIR: Referring to your dispatch No. 149, relative to the alleged assistance of Jewish emigrants to the United States, I have the honor to inform you that I have this day received a note from the imperial foreign office stating that this report is absolutely without foundation.

I am, etc., ANDREW D. WHITE.

(Foreign Relations, 1894, p. 538.)

Mr. White to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, February 17, 1894.

SIR: Referring to the instructions contained in your dispatch No. 149, of December 22, 1893, requiring me to ascertain from the Russian Government whether Jewish emigration to the United States had been assisted by Russian consular authorities, and to mine, No. 189, of February 13, 1894, stating that I had received an answer from the minister of foreign affairs to the effect that no such assistance had been given, I feel it my duty to call your attention to an article which appears in this morning's

number of the St. Petersburger Zeitung, a German paper of excellent standing, published in this city.

The article, under the head of the "Jewish colonization question," gives an extract from a formal report laid before the general meeting of the directors of the Jewish Colonization in London, Baron von Hirsch presiding, on January 21, 1894.

The report, after giving an account of the colonization of Russian Israelites in the Argentine Republic, goes on to state that a considerable number of the colonists were found incapable of labor; that it was necessary to expel these from the Jewish colonies in that region; that from May to December, 1893, more than 500 persons were thus driven out, and that "the greatest part of these were forwarded to North America, receiving, in addition to their traveling expenses, an amount of money sufficient to support them for a short time after their arrival."

The report then goes on to speak of measures taken to bring out additional Jewish emigrants from Russia, presumably for the purposes of winnowing out the best for the Argentine Republic and forwarding those rejected as unfit to our own.

This would seem to throw some light on the question of the Secretary of the Treasury which formed the basis of your dispatch above referred to.

I may add that the official report to the Jewish Colonization Association above referred to estimates the probable number of Russian Jewish emigrants into the Argentine Republic during the present year at about 4,000 persons.

I am, etc.,

ANDREW D. WHITE.

(Foreign Relations, 1894, p. 538.)

Mr. Gresham to Mr. Breckinridge.

DEPARTMENT OF STATE,
Washington, April 15, 1895.

SIR: Your attention is called to the department's No. 60, of February 28, 1893, to your predecessor, Mr. White, and to his reply of April 11, 1893, No. 81 (see Foreign Relations, 1893).

The subject thereof, viz., the refusal of the Russian consulate general at New York, under instructions from his Government, to visé passports issued by this department to persons of the Jewish faith, has again come up for consideration.

You are desired, unless good reason to the contrary occurs to you, to present to the Russian Government the views of this Government as contained in the dispatch of February 28, 1893, above referred to.

I am, etc.,

W. Q. GRESHAM.

(Foreign Relations, 1895, p. 1056.)

Mr. Breckinridge to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 17, 1895.

SIR: I have to acknowledge the receipt of your No. 46, of April 15, relating to the refusal of the Russian consul at New York, under instructions from his Government, to visé passports issued by the department to persons of Jewish faith, and instructing me, unless good reasons to the contrary should occur to me, to present to the Russian Government the views of our Government as contained in the department's No. 60 of February 28, 1893.

After consulting the dispatch above referred to, and the references it contained, and carefully considering the matter, I concluded to address a note to Prince Lobanow upon the subject, a copy of which, of this date, is herewith inclosed.

The records of this legation have not disclosed, after a careful search, the reply of the Russian Government to the position taken by our Government in the dispatch referred to. From long absence, however, of further complaint I presume the objectionable practice was discontinued. Its resumption or continuation after the most earnest representations of our Government, and knowing how obnoxious such an extraterritorial step, especially concerning religious liberty, must be to the United States, seemed to make it impolitic and unjust to be silent, and useless to speak in any terms but the plainest, though of course in a spirit of courtesy and kindness, which conclusion and course I respectfully submit.

In this connection I may add that soon after writing this note to Prince Lobanow I was handed by our consul general two applications from Mr. Armand de Potter, a tourist agent of New York, to secure the visé of the passports of Hebrew families. These I simply transmitted, calling attention to my previous note.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1056.)

[Inclosure in No. 71.]

Mr. Breckinridge to Prince Lobanow.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 5–17, 1895.

YOUR EXCELLENCY: I am directed by my Government to bring to the attention of the Imperial Government the refusal of the Russian consul of New York to visé passports issued by the United States to its citizens if they are of the Jewish faith.

As your excellency is aware, it has long been a matter of deep regret and concern to the United States that any of its citizens should be discriminated against for religious reasons while peacefully sojourning in this country, or that any restraint should be imposed upon their coming and going. Painful as this policy toward a class of our citizens is to my Government, repugnant to our constitutional duty to afford them in every possible way equal protection and privilegess and to our sense of their treaty rights, yet it is even more repugnant to our laws and the national sense for a foreign official, located within the jurisdiction of the United States, to there apply a religious test to any of our citizens or the impairment of his rights as an American citizen or in derogation of the certificate of our Government to the fact of such citizenship.

It is not constitutionally within the power of the United States Government, or any of its authorities, to apply a religious test in qualification of equal rights of all citizens of the United States, and no law or principle is more warmly cherished by the American people. It is therefore impossible for my Government to acquiesce in any manner in the application of such a test within its jurisdiction by the agents of a foreign power.

When this matter was the subject of correspondence between my Government and the Imperial representative at Washington, as shown by Prince Cantacuzene's note of February 20/8, 1893, such action by the Russian consul at New York was shown to be "according to the instructions of his Government."

I can sincerely assure you that the continuation of this practice is as embarrassing as it is painful to my Government, especially when it is on the part of a nation for whose government and people such intimate friendship has so long been manifested by the United States. I am happy that in this spirit I can frankly submit the matter to your excellency with the sincere hope that assurance can be given that such practices will be henceforth interdicted on the part of Russian officials located within the jurisdiction of the United States.

I avail, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1057.)

Mr. Uhl to Mr. Pierce.

DEPARTMENT OF STATE,
Washington, June 3, 1895.

SIR: I have received Mr. Breckinridge's No. 71, of the 17th ultimo, inclosing copy of his note to the Russian foreign office in regard to the refusal of the Russian consul general at New York, to visé passports for American citizens of Jewish faith.

His note is approved.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

(Foreign Relations, 1895, p. 1058.)

Mr. Pierce to Mr. Uhl.

LEGATION OF THE UNITED STATES,
St. Petersburg, June 13, 1895.

SIR: Referring to your No. 46, of April 26, and to Mr. Breckinridge's reply thereto, No. 71, of May 17, in which he inclosed a copy of his note to Prince Lobanow on the subject of the refusal of the Russian consul at New York to visé the passports of Israelites, I have the honor to say that in a recent conversation which I have had with the prince, the subject being referred to, I took occasion to call his excellency's attention to the importance of the Hebrews as a class in the United States, referring to their numbers, condition, and influence in the community as potential factors in a country governed, as is ours, by the will of the people. Prince Lobanow expressed himself as impressed with its importance, and, making a note of the matter, said he would consult with the minister of the interior on the subject at an early day.

Since then I have had occasion to call several times on Baron Osten-Sacken, to whom all questions in the foreign office relating to Israelites have been intrusted. In the course of the inquiries as to whether the two gentlemen of Hebrew faith referred to in Mr. Breckinridge's dispatch above mentioned would be permitted to enter Russia, the matter of visé of passports has come up, and Baron Osten-Sacken has informed me that he received Mr. Breckinridge's note from Prince Lobanow, accompanied by a memorandum calling special attention to the subject.

Regarding the entry of foreign Jews into Russia, Baron Osten-Sacken states the position of Russia to be, that she looks upon their presence in the Empire as prejudicial to the Russian people, that certain numbers of them being here she must take care of them, and that she proposes to do in her own way and according to her own views as to the best interests of all Russian subjects. That viewing the Jewish question as she does, as one of race and not of religion, but in which the two questions are inseparable, so far as her purposes are concerned, she refuses to permit foreign Jews of any nationality to enter her borders and swell the number already here. For this reason the Government has instructed all Russian consuls in all countries to refuse the visé of passports of foreign Jews. On the other hand and speaking of his own opinion, as the real purpose of the laws forbidding foreign Jews to enter Russia is to prevent their settlement here and their engaging in trade in Russian territory, and not to prevent the entrance of tourists, temporary sojourners, or Jews whose purpose in coming is not of an objectionable nature to the Government, Baron Osten-Sacken said that in his opinion there should be a change in the present practice regarding the admission of foreign Jews.

I expressed the hope that the Imperial Government would find it compatible with its policy to admit American citizens into Russia without inquiry as to their religious opinions or race, upon presentation of their passports. That with us the Hebrews had proved themselves to be good and law-abiding citizens, who prospered without preying upon others, but that whatever might be the opinion of the Imperial Government on this question, the interpretation and application of the Federal laws discourage citizens of the United States of all creeds taking up permanent residence in a foreign country and continuing to claim the protection of our country as such citizens; that such citizenship involves certain obligations which require a residence in our country, and therefore it is unlikely that Hebrews bearing American passports would become permanently settled in Russia. This Baron Osten-Sacken admitted was a forcible argument, and he expressed himself as hopeful that it would be possible to bring about a satisfactory revision of Russian practice as regards the admission of American Jews into the Empire.

At the same time, he said that were an answer to Mr. Breckinridge's note demanded, the reply could not be favorable. That the laws of Russia are framed with regard to her own views of her own good. I took occasion to point out to the baron that the purport of Mr. Breckinridge's note was to protest against the extraterritorial act of an agent of a foreign government, upon our soil, applying a religious test to citizens of the United States, an act not constitutionally within the power of any officer of the Government to perform, and not to criticize the Russian laws.

Under these circumstances, presenting a hopeful prospect of securing a more satisfactory condition of affairs in this vexed question, and as pressing for the principle seemed to endanger complications, I felt that the discretionary clause in your No. 46 should deter me from taking the responsibility of insisting on a reply to the note in question at the present juncture. I therefore requested Baron Osten-Sacken to hold the note in abeyance for the present. To this he assented and agreed to hold it as a memorandum of the case.

HERBERT H. D. PIERCE,
Chargé d'Affaires ad interim.

(Foreign Relations, 1895, p. 1058.)

Mr. Adee to Mr. Pierce.

DEPARTMENT OF STATE,
Washington, July 5, 1895.

SIR: I received your No. 91 of the 13th ultimo, reporting your interviews at the Russian foreign office in the matter of the refusal of the Russian consular officers in the United States to visé the passports issued by this Government to its citizens of Jewish faith.

Your conclusion that it is inexpedient to press the complaint to a formal answer at present appears to be discreet, but the department must express its deep regret that you have encountered in the foreign office a reluctance to consider the matter in the light in which this Government has presented it. The Russian Government can not expect that its course in asserting inquisitorial authority in the United States over citizens of the United States as to their religious or civil status can ever be acceptable or even tolerable to such a Government as ours, and continuance in such a course after our views have been clearly but considerately made known may trench upon the limits of consideration.

I must, however, caution you against any suggestion of retaliatory or resentful action on our part. A due sense of national dignity constrains this Government to avoid all appearance of a miniatory policy in its dealings with other powers. In this matter, especially, it is to be borne in mind that each Government is the judge for itself of the extent to which foreign consuls may be permitted to act under their own laws within its territories, and that such permission is determined by the corresponding exequatur.

The United States conspicuously illustrate their convictions on this subject in relation to their own consuls. The custom laws of the United States require the administration of a consular oath to exporters presenting manifests of goods for certification; but upon the representations of certain European Governments, among them Great Britain and Germany, that the administration of such an oath by a foreign consul to a subject of the country is an invasion of the judicial independence thereof, our consuls have been enjoined to refrain from the act complained of in all cases affecting a subject of a sovereign of the country where they reside. It might, however, have been deemed entirely competent for the Governments of Great Britain and Germany to insert in the consular exequatur an express inhibition of the obnoxious act.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

(Foreign Relations, 1895, p. 1059.)

Mr. Adee to Mr. Breckinridge.

DEPARTMENT OF STATE,
Washington, July 19, 1895.

SIR: Referring to the department's No. 46 of April 15 last and No. 92 of the 5th instant, in regard to the refusal of Russian consular officers in the United States to visé the passports of American citizens of Jewish faith, I send you a copy of a letter addressed by the Russian consul general in New York to a citizen of the United States who had presented a department passport. It illustrates the inquisitorial function assumed in regard to the religious faith of our citizens by Russian agents within our domestic jurisdiction.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

(Foreign Relations, 1895, p. 1060.)

Mr. Peterson to Mr. Waix.

IMPERIAL RUSSIAN CONSULATE GENERAL,
New York, June 27, 1895.

DEAR SIR: In reply to your letter of June 26, inclosing passport and $1.20, I would inform you that before your passport can be viséed you must inform me where you were born and what your religion is—if Christian or Jew.

I shall retain your passport and fee until receipt of your answer.

Respectfully,

C. G. PETERSON, *Vice Consul*
(For the Consul General).

(Foreign Relations, 1895, p. 1061.)

Mr. Olarowsky to Mr. Waix.

IMPERIAL RUSSIAN CONSULATE GENERAL,
New York, July 1, 1895.

DEAR SIR: I have the honor to acknowledge receipt of your letter of 28th ultimo, and desire to inform you that I can not visé your passport. You must get permission from the ministry of the interior at St. Petersburg to visit Russia before I can visé your passport.

Herewith passport and postal note.

Respectfully,

A. E. OLAROWSKY,
Consul General.

(Foreign Relations, 1895, p. 1061.)

Mr. Waix to Mr. Olney.

BOSTON, *July 15, 1895.*

SIR: As I am a citizen of the United States of America and would like to go for a short time on some business to Russia, and as I have sent my passport, signed by your honor the 18th of last June, No. 654, to the consul general of Russia, A. E. Olarowsky, in New York, to visé it, and as you will please see from the answers of the consuls, certified copies inclosed, he refused to visé it (my passport) on account that I am a Jew by religion, therefore I have the honor to ask you to advise me how shall I do, as without the visé of the consul they won't let me pass the frontier of Russia.

Your obedient servant,

MAIOR WAIX.

(Foreign Relations, 1895, p. 1061.)

Mr. Breckinridge to Mr. Olney.

No. 116.] LEGATION OF THE UNITED STATES,
St. Petersburg, July 24, 1895.
(Received Aug. 13.)

SIR: Referring to Mr. Pierce's No. 91, of June 13, 1895, relating to the distinction made by the Russian consul at New York against Hebrew citizens of the United States in viséing passports issued by our Government, I have now to submit the case to you for further instructions. In this connection I inclose herewith copy and translation of Prince Lobanow's note of July 18 in reply to my note of May 17 presenting the matter to the Russian Government. Copy of my first note was sent to the department with the legation's No. 71, of May 17.

In the present inclosure referred to Prince Lobanow stated the case from the Russian standpoint quite fully and with great kindness and moderation of spirit, and he expresses the hope that his explanation will prove satisfactory to the United States.

I inclose also copy of my reply to the above note. In my reply I express no opinion, of course, as to the sufficiency of Prince Lobanow's response, but confine myself to a statement of the case as it appears to me to be presented at the present time; state that I submit the matter to my Government, reciprocate the kind sentiments expressed, and ask for a copy of the law and regulations requiring consuls to make this distinction, in order that I may forward them in connection with the case. This request was prompted by the fact that while Prince Lobanow makes the interesting declaration that the Russian practice is not because of religious faith, yet he does not say what else it is. I will transmit these papers as soon as they can be obtained.

In addition to the foregoing correspondence, I have conferred quite fully with both Prince Lobanow and Baron Osten-Sacken, the latter having special charge of Hebrew matters. These conferences further revealed the difficulty that even the most enlightened Russians have in realizing the nature of our institutions and in separating a question of extraterritoriality from questions internal to themselves. I am happy to say, however, that both of these gentlemen discussed the matter in a spirit of the utmost good will and consideration for the United States, and I am sure that they fully reciprocate our desire to settle this matter in a way alike honorable and considerate to both countries.

In discussing the relative gravity and importance of the issue Baron Osten-Sacken asked me to give him the language of our organic law in regard to religious liberty. I tried to make our position in this regard plain to him in my note of June 25, copy

of which is inclosed. It may not be improper to add that of course this does not pretend to represent any language or instruction from the department upon this point; but it is simply a statement of my own belief as expressed in the scope of conversational discussion. Baron Osten-Sacken laid some stress upon the customary latitude which he claims is granted to consuls by other nations in viséing passports, saying that even Great Britain does not object to the practice of which we complain. I replied that I had no information upon that point, and consequently could say nothing about it; that doubtless, if he was correct, there was some sufficient reason for it in the institutions of Great Britain, but that with us the case was certainly different; that our course would be the same with any nation, and that in such a matter I did not see how we could accept the practice of other powers as a guide for ourselves.

At this point I will remark that Mr. Adee's No. 92, of July 3, relating to the subject of this dispatch, the receipt of which I now acknowledge, alluded to the limitations upon consuls and instanced our receding from certain requirements upon the objection of the British Government that "the administration of an oath by a foreign consul to a subject of the country is an invasion of the judicial independence thereof."

As this dispatch was received, however, after the receipt of Prince Lobanow's present note, I have not used this interesting point, the stage having been reached for submitting the whole business to the department to be passed upon in the connection in which that argument would apply.

The first and chief difficulty so far experienced has been to get the Russian Government to consider this question separately and simply as it is presented by the United States apart from any collateral question.

As the record shows, former discussion has largely involved the general Jewish question, particularly as presented by the internal policy of Russia. So long as an ulterior purpose of this character is in any degree suspected the Russian Government will consider that to be the real issue it has to meet, and will politely but consistently refuse to amend its ways.

The next difficulty has been to secure a due apprehension of the real nature and importance of the matter, even after it has been separately considered. It is quite difficult for Russians to consider it as more than an administrative regulation pitted against their regulations, changeable at the will of some high official, and meant only to serve purposes of convenience.

I have politely but consistently refused to enter into any discussion in this connection except upon the precise proposition submitted by the department, and I have iterated and reiterated that proposition, to the exclusion of all others, as clearly and as pointedly as I could.

In case Prince Lobanow's statement is not deemed a sufficient answer to the demands of the United States I think a reply to that effect will find the Russian Government ready, in good faith, to seek some other adjustment. This may be on instructions to their consuls in the United States to visé all passports issued by the department, or it may be a proposition to instruct them to visé none. I have discussed both of these propositions with Baron Osten-Sacken, urging the safety to Russia, in dealing with our class of Hebrews, of the former course, and expressing the hope that the latter proposal would not be deemed necessary.

In the foregoing I have tried to put you in possession of every phase of this matter as it now stands, and I respectfully request your further instruction at your convenience.

I have, etc., CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1061.)

Mr. Breckinridge to Baron Osten-Sacken.

LEGATION OF THE UNITED STATES,
St. Petersburg, June 25, 1895.

YOUR EXCELLENCY: Referring to our recent conversation upon the subject of the exercise of consular or foreign jurisdiction within the limits of the United States upon matters respecting a religious establishment or belief, I now comply with your request for a statement of the language of our Constitution with reference to the power of the United States Government itself to exercise such jurisdiction.

I will just call your attention to the peculiar character of our constitutional requirements.

The States existed separately and independently before the General Government existed. They created the General Government. It is true that many new States have been admitted into the Union since the original States created the Government, but this has been out of territory originally ceded to the General Government by the States—land which at that time lay beyond the settled zone—or out of land since acquired by the General Government by purchase or conquest, and in a way originally provided for.

So when the States created the General Government they "granted" and "delegated" certain powers to it, as enumerated in the Constitution, and they retained all the other powers themselves. Our Government has very great powers. It is supreme within the limits of those powers, but the point is that it can lawfully do nothing unless the power to do so has been granted to it.

It is a very serious matter to us, then, when our Government is desired to conform to a policy, if the power to do so has not been delegated to it. It can not assume the power or get it in any other way except by a change of the Constitution granting the Government that power.

The very great difficulty of effecting a change in the Constitution will be readily seen when it is stated that it takes two-thirds of both branches of Congress, or two-thirds of the States to propose an amendment, and after it is proposed it requires a majority vote in three-fourths of the States to adopt it. Such is the difficulty that no changes have been made except at two periods of our history. The first was the period, just after the formation of our Government, ending in 1804. Then there was no change until 1865, at the close of the Civil War, when certain changes were made as the result of that great war.

Although Article IX of the amendment of 1790 says: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people," and Article X of the same group of amendments says, "The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States, respectively, or to the people," yet in the face of all this, although Congress has not been granted any power in regard to religious matters, so great was the fear of the States and the people that Congress might upon pretext attempt such legislation that the first of all the amendments, Article I, says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Thus, you will see, my Government is prohibited in the most positive manner by the very law of its existence from even attempting to put any form of limitation upon any of its citizens by reason of his religious belief. How, then, can we permit this to be done by others? To say that they can thereby be discriminated against by foreign Governments, and are only safeguarded against their own, would be a remarkable position for us to occupy.

Fortunately we approach this matter in a spirit of friendship and reciprocal consideration and respect which has always marked the intercourse of our countries, and I am happy to say that it grows with time. I need not say that it will afford me the greatest pleasure to respond to any further requests with which I may be honored; and I do not doubt for a moment that upon full consideration an adjustment will be found alike consistent, honorable, and fully satisfactory to both of our Governments.

I avail, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1063.)

Prince Lobanow to Mr. Breckinridge.

ST. PETERSBURG, *June 26, 1895.*

Mr. MINISTER: I have not failed to devote the most serious attention to the contents of the note which you have had the goodness to address to me, under date of May 5 last, on the subject of the difficulties which the visé of passports, by the Russian consulate-general at New York, of people of the Jewish faith under American jurisdiction encounters.

You are good enough to express the opinion that the refusal interposed by the Russian consular authority to the request for a visé is contrary to the American Constitution, which does not allow that a citizen of the United States should be deprived of his rights by reason of the faith he professes. I desire first and foremost to make this distinction, that the refusal to visé, which has been given in certain cases by our consular authorities, is in nowise founded on objections properly religious. Indeed, if it was at all the fact of belonging to the Jewish religion which was an obstacle for certain

foreigners to be admitted into Russia, the law would extend this interdiction to all the members of that religion.

Now, on the contrary, it recognizes formally the right of whole categories of Israelites to enter Russia, and the selection which it has made of these very categories proves that it has been guided in this question solely by considerations of an internal administrative character which have nothing in common with a religious point of view. It is not necessary for me to say to you, Mr. Minister, that the broadest spirit of toleration for all cults forms the very basis of Russian laws; the Jewish religion is no more prohibited in Russia than in the United States; it is even legally recognized here and enjoys here certain privileges.

But when, for motives of internal order, Russian law raises obstacles to the entrance of certain categories of foreigners upon our territory, the Russian consuls, who can neither be ignorant of nor overlook the law, are in the necessity of refusing the visé to persons who they know belong in these categories.

I will add even that in forewarning on the spot the persons who address themselves to obtain visés, they save them difficulties and dangers which they would encounter later if they had not been advised.

It is a question, moreover, of a general legislative measure, which applies to certain categories of Israelites of all countries whatsoever.

As to the American Constitution, I must confess that it seems to me to be here beside the question. The article of the Constitution which you were good enough to mention, and which prescribes that no religion is prohibited in the United States, is, by the very nature of things, placed outside all prejudice by the consular authority. He has neither to prohibit nor authorize the exercise in America of any cult; and the fact of his visé being accorded or refused does not encroach upon the article in question. The refusal of the visé is not at all an attack upon any established religion; it is the consequence of a foreign law, which only has its effect outside of the territory of the Union.

I enjoy the hope, Mr. Minister, that the preceding considerations will be accepted by your Government in the spirit which inspires them, and that the just respect which is held in the United States for the precepts of the laws will make it understood that the Russian consular authorities have acted in this matter as they have from necessity. The frank and complete exposition which I have the honor to make of our point of view in this question appears to me to accord the better with the relations of close friendship which exist between the two Governments and the two countries—relations to which in your note, Mr. Minister, you pay a respect so merited, and to which we also, for our part, attach the highest value.

Receive, Mr. Minister, etc., LOBANOW.

(Foreign Relations, 1895, p. 1064.)

Mr. Breckinridge to Prince Lobanow.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 8, 1895.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of June 26 in regard to the distinction made by the Russian consul at New York in viséing passports against Hebrew citizens of the United States.

As your excellency is aware, this practice of making such distinctions within the jurisdiction of the United States has long been considered by my Government as an exercise of authority within our country in plain violation of our institutions and laws, and that as such it has been the subject of respectful but most earnest protests.

The basis of this distinction has always been considered by my Government to be the religious faith of this class of our citizens, and in this form it has been presented and considered.

In your excellency's present note you state that this distinction is in no wise founded on objections of a religious character; that certain classes of Jews are permitted to enter the Empire; that it is for the purposes of internal order that the Russian law places obstacles to the entrance of certain categories of foreigners; that Russian consuls can not overlook the law; that its administration upon the spot saves the applicant greater difficulties at a subsequent period; that the question is one of general legislation, applicable to certain categories of Israelites in all countries; that the article of our Constitution relating to religious liberty does not seem to apply to the case; that the Russian consul does not authorize or prohibit the exercise of any religion in America; that the refusal of a visé does not militate against any established religion, it being the consequence of a foreign law of an administrative character, which has no effect except outside of the territory of the Union.

Your excellency further has the goodness to express the hope that your considerations stated will be acceptable to my Government, citing the foregoing as a full statement of the point of view of the Imperial Government and accompanying the whole with friendly sentiments, thoroughly reciprocal of our own, and which I beg to assure you is the spirit in which my Government sincerely desires to consider these and all differences with the Imperial Government.

I have thus attempted to recite particularly and accurately the points in your excellency's note, for in this difference—so radical, springing from institutions so different and embarrassed somewhat by differences of speech—I have realized the obstacles to a complete mutual understanding of the issue.

I transmit your excellency's note to my Government.

In this note therefore I do not attempt to reply to your note as a response to the position and protests of my Government; but I have confined myself to a statement of the case as it presents itself to me at this time that any obscurities, if they exist, may be cleared away, and I wish further to respectfully call attention to a seeming misconception of my note of June 13, which followed my note of May 5, submitting this case.

The latter note was written in compliance with a request which I had the honor to receive from Baron Osten-Sacken to state and explain the language of our organic (constitutional) law upon the subject of legislation by the United States affecting the free exercise of religious belief.

Our Constitution does not say that Congress shall not make a law simply prohibiting our authorizing a religious exercise or belief, as your excellency seems to understand; it says that "Congress shall make no law respecting an establishment of religion nor prohibiting the free exercise thereof." Certainly if the law deprives any people or person of a certain faith, because of that faith, of all or of any part of the rights, privileges, and immunities enjoyed by other citizens or class of citizens it is made "respecting" that religion and it militates against "the free exercise thereof" as much as if the sect had been mentioned in the title of the act and the consequences had been named as pains and penalties for the conscientious belief and observances entertained and practiced.

This is the opinion I tried to make perfectly clear, but your excellency now states that religion is not the basis of the distinction made in our country against certain classes of our citizens.

That the case may be fully submitted to my Government I will, in conclusion, ask your excellency to kindly have me supplied with a copy of the laws and regulations relating to this distinction, for, while the supposed basis is disavowed, the actual basis is not stated.

I avail myself, etc., CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1066.)

Mr. Adee to Mr. Breckinridge.

No. 107.] DEPARTMENT OF STATE,
Washington, August 22, 1895.

SIR: I have received your No. 116, of the 24th ultimo, giving the correspondence between yourself and the Russian foreign office on the subject of the viséing by Russian consuls in this country of passports issued to American citizens of Jewish faith. Your presentation of this Government's view of that question meets with the approval of this department.

Apart from the constitutional objections to the discrimination made by Russian consular officers against American Jews, this Government can never consent that a class embracing many of its most honored and valuable citizens shall within its own territory be subjected to invidious and disparaging distinctions of the character implied in refusing to visé their passports. For, notwithstanding Prince Lobanow's suggestion that his Government's consular regulation upon the subject under consideration does not apply to all Israelites and therefore can not be regarded as a discrimination against them on religious grounds, the fact remains that the interrogatories propounded to applicants for the consular visé relate to religious faith and upon the response depends the consul's actions.

Viewed in the light of an invidious discrimination tending to discredit and humiliate American Jews in the eyes of their fellow-citizens, it is plain that the action of Russian consular officers does produce its effect within American territory, and not exclusively in Russian jurisdiction.

But the Russian discrimination against American Jews is not confined simply to the matter of viseing passports. This department was informed a few years since by the Russian minister here that Russian consuls in this country would refuse authentication to legal documents for use in Russia when Jews are ascertained to be interested. This is not merely an unjust and invidious discrimination against Jews, but would seem to be plainly a violation of the spirit of Article X of the treaty of 1832 between this country and Russia in respect of the property rights of American citizens in that country.

Since you have received my instruction No. 92 of July 5 you may incorporate the substance of that, together with the views herein expressed, in your next note to the Russian Government upon this subject. The text of the Russian law, of which you have very properly requested a copy, is awaited with interest here, but it is not deemed probable that the question, viewed in the light in which I have just considered it, will be affected by any municipal legislation of the Empire.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

(Foreign Relations, 1895, p. 1067.)

Prince Lobanow to Mr. Breckinridge.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERNAL RELATIONS,
St. Petersburg, August 12, 1895.

Mr. MINISTER: Answering the request which you have had the goodness to express in your note of July 8 last, I have the honor to transmit to you herewith a translation, from the most recent authentic texts, of the Russian laws governing the conditions of entrance and establishment of foreign Israelites upon the territory of the Empire.

Since you have had the goodness to refer to it, and in conformance with what I have had the honor to explain to you in my preceding note, the Russian law places certain restrictions on the entrance of Israelites in question on our territory; but these restrictions are far from implying an absolute interdiction, and they have their source in considerations of a kind essentially administrative and economic.

The Imperial Government, having already many millions of Jewish subjects, only admits their cogeners of foreign allegiance when they seem to present a guaranty that they will not be a charge and a parasitic element in the State, but will be able, on the contrary, to be useful to the internal development of the country. It is because he had it in view to protect himself from an influx of a proletariat of this nature that the Russian legislator has established clearly the categories of Israelites of whom entrance on our territory can be admitted.

Receive, Mr. Minister, etc., LOBANOW.

(Foreign Relations, 1895, p, 1068.)

Mr. Breckinridge to Mr. Olney.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 28, 1895.

SIR: Referring to my No. 116, of July 24, in regard to the refusal of the Russian consul at New York to visé the passports of American citizens of Jewish descent, I now have to inclose copy and translation of a note dated August 12, from Prince Lobanow, in response to my request for a copy of the laws and regulations bearing upon the administration of foreign Jews.

I also inclose copy and translation of the laws in question.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1068.)

[The Russian laws relative to the entry of foreign Israelites.]

1. Foreign Israelites and especially those who are agents of important foreign commercial houses, are permitted to visit the manufacturing and commercial localities of Russia, known as such, and to reside there a certain length of time according to the circumstances of the case. It is the province of the ministry of the interior to authorize

the requests presented to this end by the Israelites in question. But in the case of a banker or chief of a commercial house of known importance, the legations and consulates may, even without previous authorization from the ministry of the interior, issue and visé passports for them to enter Russia, according to the same regulations which apply to all foreigners who come upon Russian territory, but under the condition of informing the ministry of the interior of every passport granted or viséed for an Israelite of that category. (Art. 289, T. XIV of Res. of Laws, edit. of 1890.)

2. Foreign Israelites are not permitted to establish themselves in Russia, nor to become Russian subjects.

REMARK.—Exception to this rule is made in favor of Israelites native of Central Asia without distinction as to the subjection to which they belong. These Israelites, on presentation by them of a certificate of good conduct in due form, may receive from the ministry of the interior, and from the respective governors-general authorization to become Russian subjects, being included in the rolls of the population of the frontier towns of the Province of Orenburg or of Turkestan, under condition of their entering the merchant guilds, and being admitted to the enjoyment of the rights conferred on Jewish Russian subjects. (Art. 992, T. IX of Res. of Laws, edit. 1890.)

3. Among foreign Israelites there are permitted to establish themselves in a permanent manner in the regions where Israelites enjoy the right of permanent establishment, only the following categories:

First. Those whom the Government judge necessary to exercise the functions of rabbi.

Second. Physicians whom the Government can employ in the administration of the war and navy.

Third. Those who come to Russia for the purpose of founding factories or works, except brandy distilleries, and who furnish proof that they provide a capital for that purpose of at least 15,000 rubles. These Israelites on entering Russia must engage in writing to found these establishments within three years. In default of this engagement they will be expelled from the terrtiory of the Empire. If this engagement has been fulfilled they may become Russian subjects on matriculating for this purpose according to law.

Fourth. Operatives whom the Jewish manufacturers bring to work in the factories. They are admitted on presentation, first, of their passports; second, of certificates of Russian legations or consulates containing statements of their condition, of their former occupation, of their trade, of the name of the person who brought them, and of the purpose for which they are destined.

These operatives are admitted to live permanently in the regions where Jews have the right to establish themselves permanently, and can take oath for the purpose of being received into Russian subjection after not less than five years of sojourn in the factories, after they have received from their patrons and from local authority a certificate of good habits and industry. (Art. 290, T. XIV of Res. of Laws, edit. 1890.)

4. Foreigners are authorized to take out patents for engaging in commerce (certificates of guilds) and trade, and enjoy all the rights pertaining to the possession of these patents on the same footing as persons born in the subjection of the Empire.

REMARK.—With regard to Jewish foreign subjects, the following rules are established: It is permitted to foreign Jews coming to Russia and who are favorably known for their social position and for the extent of their commercial business—and this each time in virtue of a special authorization granted on agreement to that effect between the ministers of finance, of the interior, and of foreign affairs—to engage in commerce in the empire and to establish in it banking offices, on being furnished with a patent of commerce of the first guild for that purpose. It is permitted equally to these Israelites to establish factories, to acquire and hold or lease real estate, except land inhabited in the country, observing the provisions of the laws relative to civil conditions.

Those Israelites who come into Russia to buy Russian products and export them may receive equally commercial patents of the first guild, after an agreement has been established to that effect each time between the ministers of finance, of the interior, and of foreign affairs. Foreign Israelites, especially those who are agents of important commercial houses, can visit the manufacturing and commercial localities known as such, in Russia, in virtue of the provisions prescribed in the regulations of passports. (Art. 1001, T. IX of Res. of Laws, edit. of 1890.)

(Foreign Relations, 1895, p. 1069.)

Mr. Pierce to Mr. Olney.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 4, 1895.

SIR: I have the honor to acknowledge the receipt of Mr. Adee's No. 107 of August 22, relating to the visêing of passports issued to American citizens of Jewish faith by Russian consuls in the United States.

Upon consultation with the minister, before taking his leave of absence, it was thought it would be more prudent to await your reply to the legation's No. 133 of August 28, inclosing copy of Prince Lobanow's note of August 24 and of the Russian laws bearing upon the question of admission of Jews into the Empire, before addressing the Imperial Government again upon the subject.

The views expressed both in Mr. Adee's No. 107 of August 22 and No. 92 of July 5 have been attentively read and will be carefully borne in mind for future action at an early date upon this important question.

HERBERT H. D. PIERCE.

(Foreign Relations, 1895, p. 1070.)

Mr. Uhl to Mr. Peirce.

No. 130.] DEPARTMENT OF STATE,
Washington, October 23, 1895.

SIR: Your No. 148 of the 4th instant has been received. You therein state that upon consultation with Minister Breckinridge, before he took his leave of absence, it was thought that it would be more prudent to await the department's reply to the legation's No. 133, of August 28 last, inclosing a copy of Prince Lobanow's note of August 24 and of the Russian laws bearing upon the question of the admission of Jews into the Empire, before again addressing the Imperial Government pursuant to Mr. Adee's instruction No. 107, of August 22, upon the subject of the withholdment of the visés to passports of American citizens of Jewish faith by Russian consuls in the United States.

Mr. Breckinridge's No. 133 has been examined attentively and marked for eventual publication in the printed volumes of diplomatic correspondence. Its inclosure did not directly deal with the question presented in the department's previous instructions. The prohibition of a visé to the passports of American Jews by Russian consuls in the United States does not distinctly appear therein, although its existence in some form may be inferred from a footnote stating that in virtue of an imperial order of March 14, 1891, Russian legations and consulates may without the previous authorization of the minister of the interior issue passports and visés to Jews who are bankers and chiefs of important commercial houses, and that this distinction is extended also to visés of passports to commercial travelers, representatives, clerks, and agents of such commercial houses when the bearers are duly certified by the principal thereof and the consul has knowledge of the standing of the house.

This does not touch the essential question to whcich the department's previous instructions have invited attention, namely, the assumption by the agents of Russia in the United States of inquisitorial functions touching the religious faith of applicants for passports. If anything, it presents the subject in a still more unfavorable light, for it seems that those Russian agents in a foreign territory may, in their discretion, inquire into the business standing of the principal of the commercial house employing a Hebrew agent, and act favorably or unfavorably according to their judgment of its "importance."

The question is not whether the Russian Government by imperial order or ministerial regulation has directed its consuls to make such inquiries in respect to the religious faith or business transactions of American citizens, but whether the Imperial Government has any right to make such inquisition in a foreign territory when the effect may be to disregard the Government's certification of the fact of citizenship; or, assuming for the argument's sake, but not by way of admission, that such a right may technically exist, the question remains whether the assumption to exercise it in the face of the temperate but earnest remonstrance of this Government against foreign interference with the private concerns of its citizens is in accordance with those courteous principles of comity which this Government is so anxious to observe in all its relations with foreign States, and which it naturally expects from them in return.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

(Foreign Relations, 1895, p. 1070.)

Mr. Breckinridge to Mr. Olney.

No. 181.] LEGATION OF THE UNITED STATES,
St. Petersburg, December 8, 1895.
(Received Dec. 23.)

SIR: Referring to Mr. Uhl's No. 130, of October 23, regarding the refusal of Russian consuls in the United States to visé the passports of certain American citizens of Jewish descent, and to the proceedings had in connection therewith, I now have to inclose a copy of my note of this date to Prince Lobanow upon the subject.

In the same connection reference should be had to Mr. Adee's No. 107, of August 22, and No. 92, of July 5.

I wish to call attention to certain changes which have taken place, in the form at least, of this controversy as it has progressed.

The first distinction in this particular point in our long and varied controversies with the Russian Government about the rights of our citizens of Hebrew descent and the expression to which most frequent reference has been made, was Mr. Wharton's dispatch No. 60, of February 28, 1893, to my predecessor, Mr. White. But in that dispatch the issue was largely colored by the religious feature which seems to give rise to this objectionable policy, as is shown by such expressions as "a religious inquisitorial function," "a religious test," "Jewish faith," etc.

The correspondence has reflected and to quite an extent has been limited by this aspect of the question until the position of the department was made broader and clearer by the dispatches of Mr. Uhl and Mr. Adee, previously referred to.

I have incorporated the substance of these dispatches in my present note to Prince Lobanow. In my brief reference therein to our treaty rights I have been guided chiefly by Mr. Blaine's dispatch No. 87, of July 29, 1881, to Mr. Foster, in which those rights are fully discussed.

Referring to the inclosed copy of my note to Prince Lobanow, I will only add that while I have sought, of course, to reflect accurately the position and sentiments of the Government, and in an entirely respectful manner, yet I have not deemed it wise or proper, in the exercise of such discretion as may rest with me, to present the case with any less distinctness and vigor than my instructions justify.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1071.)

[Inclosure in No. 181.]

Mr. Breckinridge to Prince Lobanow.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 6, 1895.

YOUR EXCELLENCY: Referring to your note of August 12–24, and also to your former note of June 26–July 8, both relating to the refusal of Russian consuls in the United States to visé the passports of certain classes of American citizens of Jewish descent, and previously acknowledged, I now have the honor to communicate with you further upon the subject.

I did not fail to transmit to my Government the very careful and temperate arguments in which your excellency stated the position of the Imperial Government in this matter and defended the law under which its officials act.

Your excellency has the goodness to say that the practice is not based upon the religious faith of the persons immediately concerned. I beg to reply that while this may alter the appearance, yet it does not change the nature of the case. The religious feature was merely the strong incident which seemed to give rise to the erection of tribunals within the territory of the United States empowered to accept some and to reject others of the certifications of their Government and to make inquisition into the faith of their citizens. It is equally obnoxious to the institutions and derogatory to the dignity of the United States that their certifications should thus be discriminated against from any other cause or that their citizens should be subjected, upon their own soil, to inquiries relating to their race, wealth, business pursuits, or to any other intrusion upon their rights and into their personal and private affairs.

Painful as it is to my Government that such discrimination should be made by the imperial officials anywhere against its certifications and against any of its citizens innocent of crime, and violative as this is believed to be of both their natural and treaty rights, yet it is still more objectionable when practiced by foreign tribunals erected within our own jurisdiction, guided by an elaborate system of practice against the United States and their citizens, and clothed with power to act favorably or

unfavorably, according to their own judgment of the importance of the case. Whatever may be the purpose, this is the effect of such regulations and practices, and it is my duty to say to your excellency that they can not be acquiesced in by the United States.

It seems to my Government that it should not be necessary to go to the length to which it has been compelled to go in order to demonstrate entirely to the satisfaction of the Imperial Government the correctness of its contention in this matter, and to secure the prompt cessation of this practice in the United States, for it is not believed that any Government will seriously contest that every sovereign State is and must be the judge for itself of the extent to which foreign consuls may be permitted to act under their own laws within its territory, and that such permission may be determined by the corresponding exequatur. If there be an exception to this, it must be with respect to countries justly held in much less estimation than does or should obtain between the United States and Russia.

The United States conspicuously illustrate their convictions on this subject in respect to their own consuls. Our custom laws require the administration of a consular oath to exporters presenting manifests of goods for certification; but upon the representation of certain European Governments, among them Great Britain and Germany, that the administration of such an oath by a foreign consul to a subject of the country is an invasion of the judicial independence thereof, our consuls were enjoined to refrain from the act complained of in all cases affecting a subject of the sovereign of the country where they reside. Such Governments were fully competent to insert in the consular exequatur an express inhibition of the obnoxious act; but that fact only lends additional legal and moral force to any subsequent protest against acts of this character not foreseen.

I trust that I have been able to make clear to your excellency that my Government never can and never should consent to these practices. They humiliate within its own territory, by invidious and disparaging distinctions, a class embracing many of its most honored and valuable citizens, though in such a cause it would contend with equal zeal for a single, though the humblest, citizen in the land.

I am happy to believe that it is in the justice of this claim and in the persuasive power of a friendly nation that the strength of this contention lies. My Government feels that it has carefully observed in all its earnest but disregarded protests about this matter the principles of comity which it is scrupulous to observe, and it feels that it is entitled to a better return than it has received. It does not desire this difference to trench upon the just limits of consideration.

If I have spoken plainly, it is yet with the greatest respect, and because plain but respectful words seem to me the best way to remove differences between Governments jealous of their dignity and rights, and yet moved, as I am sure both are, by a sincere desire to do justice and to preserve and increase the honorable friendship which has so long subsisted between them. It is in this spirit that I express the hope that this protracted and irritating difference may come to a speedy end.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1072.)

Mr. Olney to Mr. Breckinridge.

No. 156.] DEPARTMENT OF STATE,
Washington, December 27, 1895.

SIR: I have received your No. 181, of the 6th instant, and have to approve your note to Prince Lobanow of that date, in regard to the visé of American passports.

I am, etc.,

RICHARD OLNEY.

(Foreign Relations, 1895, p. 1074.)

ARREST OF JOHN GINZBERG.

Mr. Uhl to Mr. Breckinridge.

DEPARTMENT OF STATE,
Washington, May 8, 1895.

SIR: I inclose a copy of a letter from Mr. Robert M. Lewis, respecting the case of John Ginzberg, a naturalized American citizen, under arrest in Russia.

It appears that Ginzberg left Russia at the age of 14, four years before any obligation to perform military service could have accrued. He was duly naturalized as an American citizen and received a passport from this Department on October 8 last, the

statements in his application corresponding with those in Mr. Lewis's letter. It is said that he was arrested on crossing the Russian frontier, thrown into jail at Minsk Pinsk and is now held under surveillance while his case is being considered at St. Petersburg.

You will investigate the case and use your good offices in his behalf.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

(Foreign Relations, 1895, p. 1081.)

[Inclosure.]

Mr. Lewis to Mr. Gresham.

GLASGOW, MONT., *April 23, 1895.*

DEAR SIR: John Ginsberg left this country to visit his parents at Minsk Pinsk, Loheshin, Russia, having left Russia 15 years ago when but a boy of 14 years of age. He took out his naturalization papers at Wilmington, Del., some years ago, and before leaving this country procured a passport for two years. I am in receipt of a letter to-day from him stating that when he crossed the Russian border at or near Prostken he was arrested, and the authorities took away his certificate of naturalization and passport, also his clothes, when he was placed in jail at Pinsk. It seems from his letter that he is now allowed to go about, but under surveillance, and without his passport can not leave. He further says that he understands that his case is to be carried to St. Petersburg. I trust that this matter will be promptly taken up by your department, that Mr. Ginzberg may be released, his crime consisting of becoming an American citizen. Kindly acknowledge receipt and oblige.

Very respectfully, ROBERT M. LEWIS.

(Foreign Relations, 1895, p. 1082.)

Mr. Uhl to Mr. Breckinridge.

DEPARTMENT OF STATE,
Washington, May 15, 1895.

SIR: In connection with the department's No. 50 of the 3d instant, directing you to investigate and extend your good offices in the case of John Ginzberg, arrested in Russia for having, as is understood, evaded military duty, I have now to inclose for your further information a copy of a letter from his excellency the governor of Montana, of the 9th instant, covering an affidavit of John M. Lewis, of Glasgow, in that State, bearing upon the case of Mr. Ginzberg, and a printed copy of his pathetic letter detailing the features of his complaint.

Although I remarked in my previous instruction that Mr. Ginzberg had been granted a passport, and that his sworn statements corresponded with those contained in the letter from Mr. Robert M. Lewis. I send, out of abundant caution, a copy of Mr. Ginzberg's passport application, dated October 4, 1894.

It is possible, as would appear from a remark in his printed letter of March 26 last to Mr. Lewis, that his case had been brought to your attention prior to the receipt of the department's No. 50, but if not I am confident that you will, upon its arrival, do whatever you properly can to effect Mr. Ginzberg's release should the facts as ascertained by you warrant your intervention in his behalf.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

(Foreign Relations, 1895, p. 1082.)

[Inclosure.]

Mr. Richards to Mr. Gresham.

EXECUTIVE OFFICE,
Helena, Mont., May 9, 1895.

SIR: I have the honor to inclose herewith for your consideration the affidavit of one John M. Lewis, of Glasgow, this State, bearing upon the case of John Ginzberg.

It appears that Ginzberg is an American citizen who is unlawfully detained by the Russian authorities and that a release can only be obtained through the kindly offices of your department.

For your further enlightenment I also inclose a copy of a letter written by Mr. Ginzberg to Mr. Lewis, as published in the local paper. Mr. Lewis is a reputable citizen of this State, and I trust the facts set forth in his affidavit will warrant your department in prompt and earnest efforts to secure the liberation of Ginzberg and his restoration to his home and friends.

I am, etc., J. E. RICHARDS,
Governor of Montana.

(Foreign Relations, 1895, p. 1082.)

[Subinclosure.]

Affidavit of Mr. Lewis.

GLASGOW, *April 29, 1895.*

STATE OF MONTANA, *County of Valley, ss:*

John M. Lewis, being first duly sworn, deposes and says that he was registry agent in Glasgow, Mont., for the general election of 1892, and that at that time one John Ginzberg exhibited to him his certificate of naturalization as a citizen of the United States of America; and that he has known the said John Ginzberg for about four years, and is now informed and believes that the said John Ginzberg has been deprived of his naturalization papers by the Russian authorities and is unlawfully detained at Minsk Pinsk, Loheshin, Russia. Deponent further deposes and says that he has seen the letter written by said John Ginzberg describing his detention and confinement; that he is acquainted with the signature and writing of the said John Ginzberg, and has compared with a signature on file written by said John Ginzberg, and that he has no doubt the letter was written by the identical John Ginzberg whose naturalization papers he has seen, and he further believes the said John Ginzberg to be a credible person and a good citizen of the United States of America.

JOHN M. LEWIS.

Subscribed and sworn to before me this 1st day of May, 1895.

[SEAL.] JOHN J. KERR,
Notary Public in and for Valley County, State of Montana.

(Foreign Relations, 1895, p. 1083.)

Mr. Breckinridge to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 18, 1895.

SIR: I am in receipt ot your No. 50, of May 3, 1895, inclosing copy of a letter from Mr. Robert M. Lewis, of Glasgow, Mont., relating to John Ginzberg, a naturalized American citizen, under arrest in this country, and instructing me to investigate the case and to use my good offices for the prisoner.

The matter had previously been brought to the attention of the legation by personal appeal, and various steps have been taken to effect relief. As the case is of an interesting class, I herewith inclose copies of the correspondence in regard to it enumerated below, and in additon to this it has been the subject of several visits to the foreign office.

When I received Mr. Chichkine's note of January 26–February 6, emphatically speaking of Ginzberg as a "'Russian subject'' and as "'guilty,'' thus thrusting an executive decree between the prisoner and the United States upon the one hand and the courts upon the other, I wrote a pointed note, presenting the case at length, and debated between sending that and referring the whole matter to you. I concluded, however, to send my brief note of inquiry of February 16–28. After that matters assumed a more amiable phase.

Ginzberg is, at least at present, among his kinspeople, at considerable liberty, and, with the farming season on, he ought to be comfortable. My last note to Prince Lobanow, dated April 28–May 10, shows the present status of the case. It will be followed up, and I am in hopes of his release. The copies of all the papers herewith transmitted present the whole case for your information, and upon which to base any instructions that the points may call for.

I have, etc., CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1084.)

[Inclosure No. 1.]

Mr. Robertson to Mr. Breckinridge.

HAMBURG, *December 10, 1894.*

SIR: I have the honor to bring the following matter to your official notice:

Some time in October last there called at this consulate one John Ginzberg, who presented his American certificate of naturalization, and a passport issued by the Department of State at Washington. He informed me that he was a native of Russia, and was then on his way to pay his former home in Russia a visit. I informed him that it would be necessary for him to obtain a visé of his passport from the Russian consul here before his departure for Russia. A few hours afterwards he returned to this office and informed me that the Russian consul had refused to visé his passport because he had been naturalized without the permission of the Russian Government. I thereupon warned Ginzberg not to attempt to cross the frontier without a visé, especially as he was an Israelite. He did not heed my advice, however.

On October 25 I received a postal card from him, dated Prostken, October 24, in which he informed me that the Russian authorities would not let him pass because the Russian consul here had refused to visé his passport. In reply to this card I sent him the inclosed letter, which was returned to me by the post office.

This morning I received a letter from Ginzberg, of which the inclosed is an exact copy.

I write Ginzberg to-day informing him that I have referred his case to you for such action as you may deem proper.

I am, etc., W. HENRY ROBERTSON, *Consul.*

(Foreign Relations, 1895, p. 1084.)

[Subinclosure.]

Mr. Ginzberg to Mr. Robertson.

24 NOVEMBER 1894.

To the honorable AMERICAN COUNSELL.

DEAR SIR: I let you know that I am arrested now by the Russians the Russian rulers are trying to put me back to the army which is colled solders for the Russian King and I am not able to go out of their power therefore I hombly beseech you to deliver me out of their hand and from their power please write to the Russian Rulers and ask them to set me free. I was arrested on the Russian gate that is near Prostken and the carried me to the place which I gave you my adressa card. I pray you my honorable counsell to help me Quick as it is possible and give me assistance.

Your American truly Friend,

JOHN GINZBERG.

My addressa:

Minsk Pinsk, in the thown Loguistion.

I send you my addressa in the Russian language.

(Foreign Relations, 1895, p. 1084.)

[Inclosure No. 2.]

Mr. Breckinridge to Mr. De Giers.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 2–14, 1894.

YOUR EXCELLENCY: A naturalized American citizen named John Ginzberg, having a passport issued by the Department of State at Washington, is reported to be under arrest at Loguishin, in the government of Minsk, and the intervention of this legation is requested in his behalf.

I do not know the nature of the charge against this man, and I request your excellency to have the facts and the nature of the case reported to me as soon as is practicable.

I avail, etc., CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1085.)

[Inclosure No. 3.]

Mr. Chichkine to Mr. Breckinridge.

ST. PETERSBURG, *December 24, 1894–January 5, 1895.*

MR. MINISTER: Referring to the note of the legation of the United States, dated December 2–14, treating of the arrest in the government of Minsk of the man John Ginzberg, naturalized citizen of the United States, I have the honor to inform you that, according to the information communicated by telegraph by the governor of Minsk to the ministry of the interior, the man Ginzberg, whose real name is Schimon, but who calls himself Johann or John, had escaped in 1886, military service, and had taken refuge in America. Arrested by the Pinsk police, he was recognized by his father Janckel Ginzberg and by other individuals, so that there is no doubt in regard to his identity. Consequently, according to the order of the governor of Minsk, he was delivered to the authorities of justice in virtue of the laws applying to crimes of desertion. (Arts. 325, 326, of the Penal Code.)

Receive, etc.,

CHICHKINE.

(Foreign Relations, 1895, p. 1085.)

[Inclosure No. 4.]

Mr. Breckinridge to Mr. Chichkine.

LEGATION OF THE UNITED STATES,
St. Petersburg, January 15, 1895.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of December 24–January 5, relating to the arrest in the government of Minsk of John Ginzberg, otherwise known as Schimon, a naturalized citizen of the United States.

I take notice of the statement that Ginzberg violated the law in regard to military service in 1886 and took refuge in America, and that upon the occasion of his recent arrest he was recognized by his father, as well as others, and that he is now in the custody of the judicial authorities, in accordance with the laws applicable to the crime of desertion. (Arts. 325, 326, of the Penal Code.)

While it is my duty to render all proper assistance to citizens of the United States, whether naturalized or native born, yet from the foregoing statement I feel at liberty to ask of your excellency only that this legation be kept informed of the progress and conclusion of Ginzberg's case, and that he be secured that humane treatment and a speedy and fair trial as, of course, is contemplated by the laws of the Empire. I earnestly request that this attention be given to the matter in hand.

I avail, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1085.)

[Inclosure No. 5.]

Mr. Chichkine to Mr. Breckinridge.

ST. PETERSBURG, *January 25–February 6, 1895.*

MR. MINISTER: In your note of the date January 25–13 last, concerning the arrest in the government of Minsk of the Russian subject John Ginzberg, guilty of the crime of desertion, you express the hope that the said Ginzberg will be treated with justice and humanity.

You can be assured, Mr. Minister, that it could not be otherwise, the Russian authorities—administrative as well as judicial—being always deeply imbued with sentiments of humanity toward all persons with whom they have to do.

Receive, Mr. Minister, etc.,

CHICHKINE.

(Foreign Relations, 1895, p. 1086.)

[Inclosure No. 6.]

Mr. Breckinridge to Mr. Chichkine.

LEGATION OF THE UNITED STATES,
St. Petersburg, February 16–28, 1895.

YOUR EXCELLENCY: I have delayed some time in replying to your note of January 25–February 6 in regard to the case of John (or Schimon) Ginzberg, partly with the hope that I might be favored with a further communication of a more explicit character.

While I have no doubt, nor have I ever entertained or expressed any doubt, of the general high standard of humanity and justice of Russian executive and judicial officers, yet if your excellency's meaning is that the imperial foreign office is taking such an interest in the case as will insure comfortable conditions of confinement, pending the trial, prevent unreasonable delay, and secure for the prisoner capable counsel for his defense, which is sometimes necessary in all countries, and which, I take it, is the least that can be requested in a case of this character, I would be glad to be explicitly informed of the facts.

If, upon the other hand, the meaning is that this case in its present status is not an acceptable case for diplomatic intervention or correspondence, then I would respectfully beg that the meaning be made clear.

Permit me, however, to express the sincere hope that the latter is not the meaning intended to be conveyed. But, in either event, I am sure you will quite agree with me that if any doubt exists in a matter of this character, it is better to dispel it by asking for a more explicit statement of the intended meaning.

I respectfully request that your excellency will kindly favor me with as early reply to this note as may be convenient.

I avail, etc., CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1086.)

Mr. Ginzberg to Mr. Breckinridge.

MINSK PINSK IN THE TOWN OF LOGUISHIN, RUSSIA,
March the 15th, 1895.

To the greate educated MINISTER OF THE U. S. OF AMERICA IN ST. PETERSBURG, RUSSIA.

GENTILEMEN: I let you know that I am a sittison of the U. S. of America Because I lived among the dwellers down there I behaved myselfe among the inhabitends of the U. S. of America for 14 years very nicely I am a true democratic man I always Paid them my texess and I have done good for the contry every time all the days that I lived there I was true to them and they were true to me and it came to pass on a time when my heart desiered once for 14 years to see how are my Friends getting along in Russia Europe so I took a Passport out of Washington the U. S. of America and I have paid them for 2 years and I start to go where my desiere was it come to pass on my jurney when I came to Prussia Jermany Prostken on the Russian gaite the Russian Rullers took a hold on me without a couse and they arrested me and moreover they rubbed me all my property that I had with me and they humbled me very Beastly so that my body could not bare it and also they carried me with the arrest from Prostken to stoochin and straight trough till they brought me to the place where they wanted and once for all I have no Passport with me now and I can not go nowhere for employment I am poor and needy I have no bread to eat and nor a garment wherwitoll to cover my body the rullers in the City of Pinsk took away from me my American papers and since the Falls Sison till now and I can not get them back now therefore my dear master and Minister I humbly pray you to be kind unto your servant and to look quick for my cause atend for my trial and pity me send me Please som assistence for my need so much as you are able and willing. The Lord bless you and strengthen you and give you life everlasting I am your Truly American Friend John Ginzberg.

(Foreign Relations, 1895, 1087–1088.)

[Inclosure 7—Translation.]

Mr. Chichkine to Mr. Breckinridge.

ST. PETERSBURG, *February 22–March 6, 1895.*

Mr. MINISTER: In answer to my note of January 25–February 6, you have expressed the desire to receive information of a more explicit nature in regard to the course of the case of John Ginzberg.

You will not ignore that the purpose of the note mentioned by you was to reassure you as to the humane treatment on the part of the Imperial authorities; as regards the case of Ginzberg, it is at the present time, as I had the honor to inform you, in the hands of the justice and is following its course, and I therefore can not give the desired explicit details before a corresponding communication reaches me from our judicial authorities.

Receive, etc., CHICHKINE.

(Foreign Relations, 1895, p. 1087.)

[Inclosure 9—Translation.]

Mr. Chichkine to Mr. Breckinridge.

ST. PETERSBURG, *April 6–18, 1895.*

Mr. MINISTER: Referring to my note of February 22–March 8, No. 1603, I have the honor to inform you, according to a recent communication of the ministry of the interior, that the case of Mr. Schimon Ginzberg was turned over to the judge of instruction of the district of Stchoutchin, and that the individual in question was set free on the 4–16 of January, under surety of one named Leiser Tchetchik.

Receive, etc., CHICHKINE.

(Foreign Relations, 1895, p. 1088.)

[Inclosure 10.]

Mr. Lewis to Mr. Breckinridge.

BANKING HOUSE OF ROBERT P. LEWIS,
Glasgow, Mont., April 23, 1895.

DEAR SIR: I am in receipt of a letter from John Ginzberg, now at Minsk Pinsk, Loheshin, Russia, in which he states that on entering Russia at or near Prostken he was arrested and carried from place to place, finally being lodged in jail at Pinsk, where the authorities took away his certificate of naturalization and passport. Mr. Ginzberg left this country last October on a visit to his parents at Minsk, he having left Russia when a boy of 14 and has been away from Russia about 15 years. Took out his naturalization papers at Wilmington, Del., and procured a passport when he left this country last October. The cause given for his arrest was that he became an American citizen. Please take this matter up to the end that Mr. Ginzberg may be released from the surveillance of the Russian authorities and may return to the United States.

Thanking you in advance for your action in the matter,
Very respectfully, R. M. LEWIS.

(Foreign Relations, 1895, p. 1088.)

[Inclosure 11.]

Mr. Breckinridge to Prince Lobanow.

LEGATION OF THE UNITED STATES,
St. Petersburg, April 28–May 10, 1895.

YOUR EXCELLENCY: Referring to my notes of December 2–14, 1894, January 13–25, and February 16–28, 1895, relating to the affair of Schimon (or John) Ginzberg, a native of Russia and a naturalized citizen of the United States, I now have to state that I

am in receipt of information that Ginzberg went or was taken to the United States when only 14 years of age and that he desires to return to that country.

I am informed by a note from Mr. Chichkine, dated April 6–18, 1895, that on the 4–16 of January Ginzberg had been turned over to the judge of instruction of the district of Stchouchin, and that he was released upon that date under surety of one Leiser Tchetchik.

Without entering upon the differences in the laws of the United States and the Empire of Russia, and of their respective legal obligations toward citizens and subjects, I yet wish to acknowledge a frequent kindly disposition to adjust matters arising under those differences as far as can be done; and I submit that this case presents a very appealing feature in the extreme youth of Ginzberg at the time he left Russia. Now, for 15 years his ties have grown up in the United States, and if he wishes to return I hope the imperial permission will be granted him to do so. To charge an offense as a subject at so tender an age is to anticipate by a great leap the obligations of manhood; and the fact that he seems to have been in America, beginning in extreme youth, at the time any public obligations would have matured here presents in this particular the antagonistic principles and laws of the two countries at their pronounced points of difference, and in a way that, for my part, I always wish to avoid, especially when dealing with a Government that has been historically friendly to America. I trust that Ginzberg can be given permission to return and to assume without danger of further question at any time his obligations as a citizen of the United States.

I avail, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, pp. 1088–1089.)

[Inclosure 12.]

Mr. Breckinridge to Mr. Lewis.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 10, 1895.

SIR: I am in receipt of your letter of April 23, in relation to John Ginzberg, who has been under arrest in Minsk, and stating that he desires to return to the United States. You also state the interesting fact, in a case of this character, that he was a minor when he moved or was taken to the United States, being at that time some 15 years ago, only 14 year of age. I have just written to Ginzberg and will further follow up his case. I din't think I ever knew of a man who more persistently disregarded the advice he sought or seemingly tried harder to get into prison than Ginzberg. After a deal of work he is at last out of prison, and has been since the 16th of January, and I hope will get the consent of the Russian Government, which denies the right of expatriation, to return to America.

I am, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1089.)

[Inclosure 13.]

Mr. Breckinridge to Mr. Ginzberg.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 10, 1895.

SIR: The consul general hands me your postal card of April 19–May 1, saying that you could not hear from me. I received your letters and have been earnestly trying to get you out of prison, from which place I was happy to learn some time ago that you had been released.

I am just in receipt of a letter from Mr. R. M. Lewis, a banker at Glasgow, Mont., saying that you want to return to the United States, though you have not expressed this wish to me. If this is your wish, so inform me, and I will do what I can to get the Imperial Government to release you of every claim and let you go back to the United States.

What was your age when you went to the United States?

I am, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1089–1090.)

Mr. Peirce to Mr. Gresham.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 27, 1895.

SIR: I have the honor to acknowledge the receipt of Mr. Uhl's No. 54, of May 15, 1895, relating to the case of John Ginzberg, and inclosing copy of a letter from his excellency the governor of Montana, covering an affidavit of John M. Lewis, of Glasgow, in that State, and also inclosing copy of Ginzberg's passport application, dated October 4, 1894.

The department was informed in Mr. Breckinridge's No. 74, of May 18, 1895, of the action of the legation in this case, which has been energetically pushed, as is shown by the correspondence.

It is an unfortunate circumstance in Ginzberg's case that he entered Russia without having his passport visèed as required by law; a law, by the way, of which it appears he was informed by our consul at Hamburg.

It now seems to me that an appeal made personally to the minister of the interior may have some effect. Should the case continue to remain in the hands of the "judicial authorities" there is no limit practically to the technicalities which may be used to obstruct a speedy conclusion of the affair. I will therefore make it my business to call upon the minister of the interior at an early date and urge upon him the release of this man, in the hope that this further detention may seem to him undesirable.

I have, etc.,

HERBERT H. D. PEIRCE.

(Foreign Relations, 1895, p. 1090.)

Mr. Peirce to Mr. Uhl.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 30, 1895.

SIR: Referring to my No. 81, of May 27, I have the honor to inform you that on calling yesterday upon Mr. Chichkine, at the foreign office, I was informed that Baron Osten-Sacken now has charge of the case of John Ginzberg so far as that ministry is concerned, the case being at present in the hands of the ministry of justice.

It seemed to me prudent to inform Baron Osten-Sacken of the letter of the governor of the State of Montana and to urge upon him certain views of this case before bringing the question up with the minister of the interior.

I accordingly spent some hours with Baron Osten-Sacken both yesterday and to-day, going over with him the history of the case, and I am able to report as a result that on leaving him this afternoon I had his assurance that he would address a note to the minister of justice recommending Ginzberg's release.

Whether this will have the desired result I am unable to say, but it can not, I think, but have a favorable effect. I shall continue to follow this matter up with Baron Osten-Sacken and Mr. Dournovo, the minister of the interior, whom I hope to see to-morrow, that being his first reception day since the receipt of your No. 54. I shall also, if the course of events seems to warrant it, call upon the minister of justice in regard to this case.

I have, etc.,

HERBERT H. D. PEIRCE.

(Foreign Relations, 1895, pp. 1090–1091.)

Mr. Olney to Mr. Peirce.

DEPARTMENT OF STATE,
Washington, June 15, 1895.

SIR: Mr. Breckinridge's No. 74, of the 18th, and your Nos. 81 and 85, of the 27th and 30th ultimo, in relation to the arrest of John Ginzberg, have been received. The minister's action in anticipating the department's instructions, Nos. 50, of May 3, and 54, of May 15, on the same subject, upon information received by him from the United States consul at Hamburg, is appreciated, and your attention to the case is approved.

In reading the voluminous correspondence now sent hither an important conflict is observed between the statements on behalf of the arrested man and those communicated to Mr. Breckinridge by Mr. Chichkine, as having been furnished by the governor of Minsk. It is expressly said by the latter that Schimon (otherwise called John)

Ginzberg deserted the military service in 1886 by taking refuge in America, and after having been fully identified he was, upon the governor's order, turned over to the judicial authorities in virtue of the laws applicable to the "crime of desertion." On the other hand, in the application of John Ginzberg, upon which passport No. 17003 was issued him October 8, 1894, he swears he was born at Minsk on or about September 4, 1865, and emigrated, sailing on the *Hammonia* from Hamburg on or about the 7th day of July, 1880, subsequently naturalized in Wilmington, Del., August 10, 1886.

It is obvious that the military offense of desertion could not have been committed by this boy of less than 15 years of age when he quitted Russia in the early part of 1880; and the fact that the governor of Minsk specifies as the date of the alleged desertion the year in which Ginzberg was duly made a citizen of the United States, in pursuance of our laws, raises a presumption that the so-called act of desertion for which Ginzberg is to be tried may in fact be his acquisition of American citizenship. If this be so, the Government of the United States can never acquiesce in any claim of any other Government to penalize the act of naturalization when lawfully granted within our jurisdiction to one of its former subjects or citizens.

Actual desertion from service is universally regarded as a continuing offense, condoned neither by lapse of time nor change of citizenship, and were this proved in the present case you would have practically no ground for remonstrance against the punishment of Ginzberg as such a deserter; but, as already remarked, a child of 14 can not be a deserter in this military sense; nor is it reasonable to suppose that any man with the well-known penalites of actual desertion from active service hanging over him would have so persistently endeavored to reenter Russian jurisdiction as Mr. Ginzberg has done.

It is, however, probable, in view of Baron Osten-Sacken's conclusion that the facts of the case warranted his addressing a note to the minister of justice recommending Ginzberg's release, that actual desertion from the ranks does not figure in the case.

Should the action of the foreign office not bring about a favorable result it may be necessary to press the case on the ground that the punishment of a naturalized person for the mere act of becoming a citizen of the United States by due operation of our laws is inadmissible and unfriendly.

Before presenting the case positively on this ground it may be well, however, to put John Ginzberg's right to protection as an American citizen beyond all doubt. The circumstances of his application for a passport disclose an irregularity which may or may not be vital.

A copy of John Ginzberg's application for a passport, made October 4, 1894, before one Moritz Silberstein, a notary public of New York City, was sent to the legation with Mr. Uhl's No. 54, of May 15. It will be observed that Ginzberg therein swears that he was born at Minsk, Russia, on or about the 4th day of September, 1865, and was naturalized before the circuit court of the United States at Wilmington, Del., on the 10th day of August, 1886—that is, 25 days before attaining legal age. As the date of birth is only approximately given, this apparent defect may be removed upon the production of a copy of his certificate of birth.

Mr. Lewis, who wrote to the department on the subject, will be informed of what you have done and of your interest in the matter, in addition to the informationyou have already directly given to him in your letter of May 10.

I am, etc., RICHARD OLNEY.

(Foreign Relations, 1895, pp. 1091–1092.)

Mr. Breckinridge to Mr. Olney.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 22, 1895.

SIR: Your No. 79, of June 15, inclosing traced signature of John Ginzberg, copy of his application for a passport, and review of his case was duly received. I am happy to note your approval of the steps previously taken by the legation, and the contents of your present dispatch have my careful attention.

I have now to report the present status of the case and to inform you of the proceedings since the receipt of the dispatch above referred to.

The status is practically unchanged except so far as it may be advanced to a decision by these proceedings.

No result following the favorable note of the foreign office to the minister of justice, reported in the legation's No. 85, of May 30, and having your dispatch as an occasion for additional urgency, I again addressed Prince Lobanow, July 19, copy of which note is inclosed.

In this note I carefully restated the whole case, following the lines already pressed and those laid down in your dispatch.

This was followed up by a personal visit to Baron Osten-Sacken, when the case was fully discussed and a favorable view of the matter was taken by him.

He said the power to dismiss the proceedings against Ginzberg lay with the minister of the interior. I pressed the case from the standpoint already taken by the Russian Government, that of desertion from the military service, urged the interest taken in it by the department, and requested him to use his good offices with the minister of the interior to dismiss the whole matter and let Ginzberg return to the United States. Agreeing with me substantially about the merits of the case, the baron also agreed that it was one his Government could not well desire to continue, and that the anxiety, expense, and suffering already incurred made up of themselves no small measure of punishment. He promised to at once comply with my request.

After this the minister of the interior was seen. He spoke not unfavorably about the case; and, despite all that had been written through the regular chanels, he requested that I submit in writing a further statement of the case to him. This I did August 17, copy of which is inclosed. I am not without hope of favorable action within a short time by the minister of the interior.

Thus the case stands: The application to the minister of justice to expedite it, with the possibility of a light penalty or of acquittal is still pending. The application to the minister of the interior to dismiss the case is in the same position, and the matter will continue to be followed up in every way that may seem possible. * * *

The leniency in the present case has been, measured by the usual standard, very great. He was soon let out of prison upon mere personal recognizance; and I am informed that if his case takes its "usual" course it would be six months yet before he would come to trial.

Your remarks about pressing the case upon the ground that it is one of punishment for the mere act of becoming a citizen of the United States by due operation of our laws if it be "necessary," the position of the United States in that contingency, and the caution as to probable error in Ginzberg's approximate statement of the date of his berth, all have my careful attention. As I am still hoping for a solution upon the grounds already laid down, I do not yet press that point, nor do I yet move in the matter of the date of birth, which may technically, at least, affect Ginzberg's status, since the question of his full compliance with our laws is not raised by the Russian Government.

You state such action on the part of the Russian Government to be "inadmissible and unfriendly." This being true in a general sense, it is particularly true of one who came to us when a boy, grew up with us, and has really never known any other country. So, while not urging this in the general sense, I have used it in this special case, but without, of course, admitting in any degree that it would be proper or just in any case. Indeed, I have taken occasion in conversation to express fully to Prince Lobanow and Baron Osten-Sacken the position of the United States upon this subject.

This case will continue to be followed up and you will be promptly informed of any changes or results.

Respectfully submitting the present statement, I have, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, pp. 1092–1093.)

[Inclosure No. 1.]

Mr. Breckinridge to Prince Lobanow.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 7–19, 1895.

YOUR EXCELLENCY: My Government has communicated with me at length and with much interest in regard to John (Simon) Ginzberg, a naturalized American citizen, detained in the government of Minsk upon the charge of desertion from the military service.

The last note from this legation upon this subject was on April 28–May 10.

It seems that Ginzberg was born in 1865 and that he went to America in 1880, when he was between 14 and 15 years of age. My Government is very far from desiring to condone in any way the crime of actual desertion from military service. It is a continuing crime, and the acquisition of citizenship in the United States by a deserter would not give him any right to invoke our intervention were he subsequently duly apprehended by the country to which he once owed such allegiance.

While these points have been alluded to in the former notes of this legation, yet, in view of the stress laid upon them by my Government, I feel constrained to bring them more particularly to your excellency's attention.

It seems quite incomprehensible that this crime can seriously lay against a child, as Ginzberg was at the time he left or was carried from the Empire. He thus appears to have grown upon our soil to a fair and honorable acquisition of citizenship, and as the possession of such a title to have full right to our utmost solicitude and interest.

Surely no deserter would ever have gone back to be apprehended as this man did. He was warned by our consul at Hamburg not to visit Russia unless his passport was viséed. The consul knew that the Russian consul had refused to visé Ginzberg's passport, and so wrote me. But he said nothing of any liability to arrest for any crime, and I do not suppose Ginzberg dreamed that any such charge could possibly be laid to him. He was turned back from the frontier; but with a sense of innocence and safety he returned to his birthplace without permission, and was there arrested as stated.

It is not charged that Ginzberg entered the Empire with any evil purpose, and hence it may be said that no remarks upon this point are necessary. But I can not refrain, as indicative of the complete harmoniousness and innocence of character of this man, from inclosing a copy of a letter kindly sent to him from me by the foreign office. This copy shows that the man is still but a child in mind and disposition, and can not but incline the imperial authorities to believe that this man never committed a crime. He certainly never will commit one.

In conclusion, I submit especially to your excellency those observations particularly arising from the present communication from my Government; and I ask that Ginzberg may be permitted to return to America, as formerly requested, without further let or hindrance.

I avail myself, etc., CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, pp. 1093–1094.)

[Inclosure No. 2.]

Mr. Breckinridge to Mr. Dournovo.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 5–17, 1895.

YOUR EXCELLENCY: I hasten to comply with the wish you so kindly expressed to the secretary of this legation that I should submit a statement of the case of John Ginzberg, a naturalized American citizen, in detention at Loguishin, Minsk Pinsk. I wish to express my appreciation at the same time of your goodness in accepting this statement in English instead of in one of the several other languages at your command, for I regret to say that English is the only language in which I can express myself.

Ginzberg was born at Minsk, Russia, in 1865. He went to the United States when he was 14 years of age, and upon becoming of age he was made a citizen according to the laws of the United States.

In the month of December of last year he returned to Russia to visit his family. He is the bearer of passport No. 17003, issued by the Department of State of the United States on the 8th of October, 1894.

Upon reaching Prostken he was arrested upon the charge, as I am informed by the imperial foreign office, of desertion, and I have been further informed that he is now released from confinement, but is required to confine himself to the locality of Loguishin, Minsk, under bond or assurance of Leiser Tchetchik.

This case has been the subject of my earnest representations from my Government, and of repeated communications and interviews between this legation and the foreign office.

As to the merits of the case my Government wishes it first to be clearly understood that if Ginzberg had actually deserted from the military service of the Empire, or had fled from service which had matured, it would not interpose in his behalf. It has no desire to condone the crime of desertion.

But the accused left the Empire when he was a boy, an irresponsible child, and surely he was not liable at that tender age to any military service.

Having come to the United States at that age, and having grown up there, my Government thinks it unfriendly to hold him liable as one who has consciously and purposely sought to avoid a matured duty. Hence it earnestly desires that in this state of the case he be discharged and permitted to return to the United States.

Attention is also called to the obvious fact that Ginzberg is a man of simple, I may well say, of weak mind, and one hardly to be held responsible for at least such acts as are not hurtful to others. His letters to me strongly indicate this. Your excellency doubtless has a copy of one these letters with the papers from the foreign office, and two or three more of such childish communications have been received by me. The character of sympathy shown for him by persons in the United States further indicates this. The very fact of his coming here in the way he did, clearly shows that since he is not a vicious man, he must be a man of very weak mind. The United States consul at Hamburg wrote that Ginzberg applied to the Russian consul there to have his passport viséed, which was refused. He then applied to the United States consul for advice, and was strongly advised not to attempt to enter Russia under the circumstances. Yet he came to the frontier and was turned back by the Russian officials. Even after this experience he eluded the guards and entered the Empire, all of which, in so harmless a man, with no very strong inducement of any kind, shows a lack of intelligence that must attract attention.

I have fully submitted the case to your excellency, and I hope that the earnest wish of my Government can be complied with, and that in accordance therewith Ginzberg can be set at liberty and permitted to return to his home in the United States. He has now suffered from great anxiety and long detention, and I ask the kindness of information of your excellency's decision in the matter.

I avail, myself, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1094.)

Mr. Breckinridge to Mr. Olney.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 29, 1895.

SIR: Referring to my No. 130, in regard to John Ginzberg, I now have to say that I am informed by a note from Mr. Chichkine that the foreign office has been informed by the ministry of justice that the necessary steps have been taken to hasten the progress of this case.

The appeal to the minister of the interior to dismiss the case is still pending.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1895, p. 1096.)

BANISHMENT OF JOHN GINZBERG.

Mr. Breckinridge to Mr. Olney.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 7, 1896.

SIR: Referring to my No. 135, of August 29, 1895, I now have the honor and pleasure of inclosing copy of a letter from Mr. Ginzberg, dated Minsk, September 19–October 1, stating that his trial was concluded September 16–28, with the result that he can return to the United States.

Mr. Ginzberg further alludes to the method of his return, desires the return of his American papers, and he prefers a claim against the Russian Government of $3 a day for 730 days of arrest and detention.

I also inclose copy of my letter of this date to Mr. Ginzberg and of my note of same date to the foreign office.

I express gratification at the reported conclusion of the trial, ask for fuller and more explicit information of the result, request the return to Ginzberg of his papers and full liberty as respects his return to the United States, but refrain from taking any action in regard to his claim, informing him that it is referred to the department.

Further information will be reported to you as it may be obtained.

Submitting the foregoing, I have the honor, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1896, p. 509.)

Mr. Ginzberg to Mr. Breckinridge.

My petition and request.

MERCIFUL GENTLEMEN: I let you know that my trial is over by the judges of Minsk, in the city of Pinsk, on the 6th of September, 1896. It was finished for to send me to the United States of America. So I am afraid that Russia will not send me as a passenger. But they might send me through jails or arrest houses, as they always do in their land. Therefore, my beloved and good gentlemen, I pray you very much to be so kind unto your servant and let me not suffer in this journey. Ask, please, the Russian rulers to give me only in my hands the American papers, with a ticket for the railroad and steamship, and so it will take me only about two weeks' time to come to the United States of America. But if they will carry me so it will take seven weeks' time, and I will be mixed up with all kinds of bad men, so that I can not stand that. And I pray you very much charge Russia for two years' time that they kept me arrested, for, indeed, they arrested me unlawfully on the Prussian ground, till it now makes altogether 730 days. I charge them $3 a day.

Yours, truly,

JOHN GINZBERG.

(Foreign Relations, 1896, p. 510.)

Mr. Breckinridge to Mr. Ginzberg.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 7, 1896.

SIR: I have your letter of September 17–October 1, and it affords me much pleasure to learn that the decision in your case permits of your return to the United States.

In regard to the method of your going, of which you speak, I make inquiry, and will inform you of the result as soon as practicable. The request is also made that your American papers be returned to you.

Concerning your claim against the Russian Government for compensation, I take no action at this time beyond including a statement of your claim in my report to the Department of State.

I am, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1896, p. 510.)

Mr. Breckinridge to Count Lamsdorff.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 7, 1896.

YOUR EXCELLENCY: Referring to the case of John Ginzberg, of which my note of August 21–September 2, 1895, to the imperial ministry of foreign affairs was my last communication, I now have the honor to say that a letter from Mr. Ginzberg, dated Minsk (city of Pinsk), September 19–October 1, informs me that his trial was concluded September 6–18, and that the result permits of his return to the United States.

Beyond the foregoing in a general way Mr. Ginzberg does not give me any information as to the nature of the verdict.

I beg to say that this information will be gratifying to my Government.

I should be pleased to receive a more full and explicit statement of the finding of the court and of the further course intended to be pursued with respect to Mr. Ginzberg, and I have the honor to request your excellency's good offices to this end.

Mr. Ginzberg expresses a desire for the return of his American papers, and for unrestricted liberty as regards his return to the United States. Without entering upon any of the controverted points between the Imperial Government and the Government of the United States, in cases similar to this, I will only say that this course would be gratifying to my Government.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1896, pp. 510–511.)

Mr. Olney to Mr. Breckinridge.

DEPARTMENT OF STATE,
Washington, October 27, 1896.

SIR: I have to acknowledge the receipt of your dispatch No. 405, of the 7th instant, announcing the decision of the court at Pinsk in the case of John Ginzberg.

Expressing the department's gratification at the apparently favorable result, I have to say that it will await further and more definite information in relation to his case before expressing an opinion upon the subject of his claim for $3 per day for 730 days during his arrest and detention.

I am, etc., RICHARD OLNEY.

(Foreign Relations, 1896, p. 511.)

Mr. Pierce to Mr. Olney.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 5, 1896.

SIR: I have the honor to inclose copies of recent correspondence in regard to John Ginzberg, from which it will be seen that he has been convicted of the charge brought against him and condemned to deprivation of civil rights and banishment from the Empire.

It appears that what Mr. Ginzberg himself wants is to leave the Empire and return to the United States, but it now becomes a question of how he is to be transported there. The penalty for remaining in Russia beyond a limited time after sentence is like that of return after banishment—deportation to Siberia. The officials at the foreign office have given me a verbal assurance that the case shall remain in statu quo for six weeks, pending advices from the department. If the means can be furnished, he can travel to the frontier in such way as he sees fit, except that his route must be determined beforehand, with the consent of the Imperial Government. If his friends can not furnish the money for a more comfortable means of making the journey, he can be marched to the frontier by "etape" in the usual manner for criminals. But it will be necessary to furnish means to pass him through Germany, so that he will not be prevented by the regulations of the German Government regarding paupers from crossing the frontier.

All Ginzberg's letters to this legation indicate that he is destitute of the means to pay for his journey to the United States.

Awaiting your instructions, I am, etc., HERBERT H. D. PIERCE,
Chargé d'Affaires ad interim.

(Foreign Relations, 1896, p. 512.)

Mr. Ginzberg to Mr. Breckinridge.

[Inclosure.]

PROVINCE OF MINSK, PINSK DISTRICT,
October 22, 1896.

GOOD MASTER AND GENTLEMEN: Upon my soul I can not understand the Russian ways how they do justice. I can tell that the arrest is lying on me more than two years' time.

And behold my case was finished on the 6th of September, 1896, and still they are keeping me now in such a little town—Loguishin, Russia—where no employment can be for such a man like I am. Now, I pray you, beloved master, show kindness to me and pity me, for I am a true man for the United States of America, and ask, please, the judges of Russia, let them send me my American papers quick as it is possible, because I have now a place for employment in the United States in the city of New York. There is a girl waiting for me; she would like to get married for me; and I have promised her that I will be her bridegroom. Therefore, beloved master, I pray you finish my case and send me out from Russia the same way like the Minsk judges are willing to do it.

Yours, etc., JOHN GINZBERG.

(Foreign Relations, 1896, p. 512.)

Mr. Chichkine to Mr. Pierce.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERNAL RELATIONS,
St. Petersburg, November 20, 1896.

Mr. CHARGÉ D'AFFAIRES: Referring to the note of the legation of the United States under date of September 25 last, I have the honor to transmit to you herewith a copy of the sentence of the Minsk district court relating to the case of Simon (alias John) Ginzberg.

As it appears from the said document, Ginzberg is, in virtue of article 325 of the penal code, condemned to the deprivation of all civil rights and to perpetual banishment from the Empire.

In communicating to you the foregoing, please, Mr. Chargé d'Affaires, accept, etc.,

CHICHKINE.

(Foreign Relations, 1896, p. 512.)

[Subinclosure—Translation.]

September 9, 1896, in the presence of the assistant attorney N. K. Gavriloff, and the assistant secretary, A. P. Kozitch, the following sentence was returned, based upon Nos. 829–834 and 842 of the statutes of the criminal court, by the member of the court, A. A. Prostomolotoff.

SENTENCE.

6TH DAY OF SEPTEMBER, 1896.

By oukase of His Imperial Majesty, in the criminal department of the district court of Minsk, represented as follows: President J. V. Mouchketoff; members of the court X. F. Solovievitch, A. A. Prostomolotoff, with the assistance of the secretary, E. F. Loponchansky, and in the presence of Mr. Assistant Attorney N. K. Gavriloff, with the participation of a sworn jury, the case of Simon Jankel Ginzberg, aged 29 years, was heard, recognized guilty (but deserving leniency) in that, being a Russian subject he left his native land and went to America, and on the 10th of August, 1886, became, without permission of the Government, a naturalized citizen of the United States of America, and that in the autumn of 1896 he voluntarily returned to Russia. Referring to the decree of laws governing the above verdict the sworn jury of the district court found that the action of which Ginzberg is found guilty (according to collection of laws of the governing senate of 1878 under No. 21), by his own admission, the crime defined in No. 325, part 1st of the penal code, and entailing with it for the person found guilty the deprivation of all civil rights and perpetual banishment from the Empire, which sentence is pronounced upon Ginzberg. The cost of the present case, according to Nos. 976–979 of the statutes of criminal courts, to be paid by Ginzberg, and in case of his inability to pay, the said costs to be born by the Crown. Documents referring to the identification of Ginzberg now in the possession of the court to be returned to him.

In conformity with the above and with No. 776 of the statutes governing criminal courts, the district court declares, according to the decision of the sworn jury, that the commoner of Little Laguishin, district of Pinsk, Simon Jankel Ginzberg, aged 29 years, based upon No. 325, part first of the penal code, is deprived of all civil rights and is sentenced to perpetual banishment from the limits of the Russian Empire; the costs of the trial to be paid by Ginzberg, and in case of his inability to pay, said costs to be defrayed by the Crown, the documents relative to the identification of Ginzberg, now held by the court, issued to Ginzberg by the Government of the United States. to be returned to Ginzberg as belonging to him.

The original bears the proper signatures.

(Signature illegible.)
Acting Secretary of the District Court of Minsk.

Countersigned: A. LAVROVITCH, *Assistant Secretary.*

(Foreign Relations, 1896, p. 512.)

Mr. Sherman to Mr. Breckinridge.

DEPARTMENT OF STATE,
Washington, November 9, 1897.

SIR: I have to acknowledge the receipt of your No. 635 of the 23d ultimo, reporting that the application of Mr. Marks Nathan, an American Hebrew, to visit Russia, had been granted by the minister of the interior.

In this connection I inclose copy of a letter from Mr. Charles L. Aarons, of Milwaukee, transmitting copy of a reply made by the Russian Legation at this Capital to a request for permission made, in behalf of a naturalized American citizen of Russian birth, to visit Russia.

This reply was couched in terms new to this department.

It may be prudent to inquire if the condition of five years' service in the Russian Army is in lieu of the criminal liability incurred under article 325 of the penal code for the offense of becoming a naturalized citizen in a foreign country and whether the same condition of return extends to Jews. If penal exile to Siberia or arrest and expulsion as a Jew should lie, the reply of the Russian Legation would seem to be unnecessarily silent as to these possible aspects of the case.

Respectfully, yours, JOHN SHERMAN.

(Foreign Relations, 1897, p. 437.)

[Inclosure.]

Mr. Aarons to Mr. Sherman.

MILWAUKEE, WIS., *November 4, 1897.*

ESTEEMED SIR: Mr. Harry Marks, of this city, is a citizen of the United States and of this State of long standing.

He is desirous of making a visit to Russo-Poland, his birthplace, to visit his aged parents, whom he left about 20 years ago, and makes this request for a passport or such other authority as will show his citizenship and right to travel. He is in possession of his first and second citizenship papers, and will forward them to you if necessary.

He begs furthermore to call your attention to the following: On his behalf I have recently written to the Russian ambassador at Washington, stating that Mr. Marks left his native land at the age of 17 and for no other purpose than to earn a living for himself and for his parents. He has been doing this in this country ever since; consequently he was not in Russia at the time when his enlistment would have taken place at the age of 21 years.

I wrote asking the Russian ambassador that a special permit from him be given to Mr. Marks assuring him that he would not be disturbed and allowing him to visit his birthplace. I herewith inclose copy of answer received by me.

I, as well as many others here who are awaiting the outcome of this matter with deep interest, would greatly appreciate any consideration that you can bestow upon this matter.

Awaiting your reply in the inclosed stamped envelope,

I am, etc.,

CHARLES L. AARONS.

(Foreign Relations, 1897, p. 437.)

[Subinclosure.]

Mr. Zelenoi to Mr. Aarons.

RUSSIAN IMPERIAL LEGATION,
Washington, October 20, 1897.

DEAR SIR: In reply to your letter I have the honor to inform you that everyone who left Russia before his enlistment in the army, on his return to that country must serve his term, which is five years. Before speaking of a permit, I found it necessary to announce to you this matter. If Mr. Harry Marks is willing to serve his country five years as a soldier, we can consider his case.

Believe me, sir, yours, truly, A. ZELENOI,
Secretary of the Russian Legation.

(Foreign Relations, 1897, p. 438.)

Mr. Hitchcock to Mr. Sherman.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 22, 1897.

SIR: Referring to your No. 485 of November 9, I have the honor to inclose herewith copy of a note of this legation of November 26–December 8, and of the reply of the Imperial Government thereto, dated December 20.

It appears from Count Lamsdorff's note that the five years' service referred to by the imperial legation at Washington is not in lieu of the criminal liability incurred under article 325 of the penal code for the offense of becoming a naturalized citizen of a foreign country without permission of the Imperial Government, and that condition, as regards military service, applies to all subjects of the Empire irrespective of religion, and hence extends to Jews.

I have, etc., ETHAN A. HITCHCOCK.

(Foreign Relations, 1897, p. 438.)

[Inclosure.]

Mr. Breckinridge to Count Mouravieff.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 8, 1897.

YOUR EXCELLENCY: I have the honor to inclose a copy of a letter from the imperial legation at Washington of October 20–November 1, sent me by my Government with instructions to inquire if the conditions of five years' service in the Russian Army, therein referred to, is in lieu of the criminal liability under article 325 of the Penal Code for the offense of becoming a naturalized citizen of a foreign country without imperial consent, and whether the same condition of return extends to Jews.

It may be observed that the communication from the imperial legation was sent to the Department of State by the applicant in the usual course of correspondence about his desires to procure a permit to return to Russia on a visit, but that its failure to mention the liabilities formerly imposed suggested the inquiry as to the present status of the law on the subject.

I avail myself, etc., CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1897, p. 438.)

[Inclosure.—Translation.]

Count Lamsdorff to Mr. Hitchcock.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERNAL RELATIONS,
St. Petersburg, December 8–20, 1897.

Mr. MINISTER: Referring to the note of November 21–December 8, I hasten to communicate to you that the five years of military service mentioned in the letter of Mr. Zelenoi are not in lieu of the penalties established by article 325 of the Penal Code for unlawful abandonment of Russian subjection. All the subjects of the Empire without distinction of religion are held to serve during that time under the flag.

Accept, etc.,

COUNT LAMSDORFF.

(Foreign Relations, 1897, p. 439.)

EXCLUSION OF JEWS.

Mr. Sherman to Mr. Breckinridge.

DEPARTMENT OF STATE,
Washington, June 18, 1897.

SIR: I have to acknowledge the receipt of your No. 561, of the 24th ultimo, in further relation to the interesting case of Frederick G. Grenz, a naturalized American citizen, who has been acquitted of the charge of having expatriated himself without imperial permission.

This gratifying result, and the remarks of Baron Osten Sacken, appear to justify your inference that there is a growing disposition among the more advanced statesmen of Russia to regard the old policy and treatment in this class of cases as being "too drastic to meet the requirements of to-day." It would afford this Government much satisfaction to witness a change in the direction of recognizing the larger policy of most of the modern States by which the right of the citizen or subject to peaceably change his allegiance by orderly process of law is admitted by statute or confirmed by the conclusion of naturalization treaties. The spirit of accommodation which, after many failures through a long series of years, at length enabled the Russian Government to negotiate with the United States a convention of extradition on the most advanced modern lines may, it is hoped, yet permit of an agreement upon the terms of a treaty whereby the irritating questions affecting our naturalized citizens of Russian origin may be removed from the field of discussion and given that practical settlement which may not hopefully be devised so long as the two Governments approach the matter from diametrically opposed standpoints.

The department is disposed to commend the course pursued by you and by Consul Heenan in so dealing with the case of Mr. Grenz as to avoid academic discussion of the abstract merits of the controversy. This Government has no desire to force that of Russia to any abrupt acquiescence in the doctrines we profess as to the liberty of the subject, which tenets we may frankly admit are derived from sources very distant from the historical traditions of imperialism. It is willing to recognize the good disposition which Russia has shown in her own way and through her own municipal and judicial workings toward personally deserving American citizens who have incurred statutory or technical disabilities in Russia. It would deplore on the part of Russia, as much as it would avoid for its own part, any attempt to narrow the controversy to rigid limits and to bring about a deadlock from which neither party may recede with self-respect. It is prepared now, for many years past, to give to its representatives in Russia the widest latitude to deal with this class of questions according to the more amiable and elastic formulas of unwritten diplomacy, in the confidence that by pursuing this mutually deferential course a more formal agreement upon the essential principles involved may eventually be found within reach.

It would be gratifying to discern a similar disposition on the part of the Russian agents in this country. The Russian Government has lately been made acquainted with the indisposition of the United States to acquiesce in any inquisitorial office on the part of the Russian agents toward American citizens within the jurisdiction of the United States, whereby a religious test and consequent disability as respects civil rights in Russia may be imposed. The response has been elicited that the test complained of is not essentially religious, but rather racial and political; and in proof of this the laws of Russia providing for the favorable treatment of foreign Jews of certain categories seeking to enter Russia have been officially communicated.

By the judicial order of March 14, 1891, the power of legations and consulates to visé passports for Russia extends—without previous authorization of the ministry of the interior—to Jewish bankers, chiefs of important commercial houses, and the brokers, representatives, clerks, and agents of such houses. Nevertheless, this department learns from time to time of the refusal of Russian agents in this country to authenticate the passports of Jews unquestionably belonging to the privileged categories, no other reason for refusal being assigned them than that the applicants are Jews. The recent case of Mr. Adolph Kutner, a wealthy and highly esteemed merchant of California, to whom a visé was refused by the chargé d'affaires because he "was not a Christian," has created a painful impression in the Senate, to members of which high body Mr. Kutner is well and favorably known. A resolution introduced by Senator Perkins on the 25th ultimo seeks to emphasize the contrast between the professions of the Russian Government in regard to the favorable treatment of alien Jews resorting to the Empire and the prohibitory practice of the Russian agents in this country. That resolution having been referred by the Committee on Foreign Relations to this department for an expression of its views on the subject, a letter, of which copy is inclosed, was addressed to the chairman of that committee on the 5th instant, in which the position of the Russian Government is truthfully but temperately stated.

This matter is not now presented by way of argument and protest, but in order that you may in such friendly and discreet manner as may be practicable, suggest to the minister for foreign affairs that one annoying feature of the case may be justly eliminated if the discretion conceded by the Russian law to the imperial legations and consulates in the matter of authenticating passports of Jews resorting to Russia were made effective and practical as to Jews of the privileged classes; or, in the language of Prince Lobanow's note of August 12–24, 1895, were in fact operative to admit Jews "of foreign allegiance when they seem to present a guaranty that they will not be a charge and a parasitic element in the State, but will be able, on the contrary, to be useful to the internal development of the country."

This suggestion is made in the same amicable spirit which appears to have prompted the disposal of the Grenz case, and which characterizes your dispatch on the subject and this reply. It can not now be foreseen whether the resolution will be adopted as introduced, but should the Senate approve it, the course of the department thereunder would be greatly facilitated were it ascertained in advance that the action of the Russian agencies in the United States will be in full harmony with the liberal features of the Russian law.

Respectfully, yours, JOHN SHERMAN.

(Foreign Relations, 1897, p. 443.)

Mr. Breckinridge to Mr. Sherman.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 11, 1897.

SIR: Referring to your No. 429 of June 18, with inclosures, concerning the laws and regluations of the Russian Government, affecting the visés of passports of our citizens of Hebrew origin, and to other controverted matters, I have the honor to inclose my note of July 20 to Count Mouravieff.

These matters have been the occasion also of verbal discussion with the foreign office. I am not prepared, however, to say more at present than to state in general terms what has passed has been well received, the reasonableness of the department's suggestions have been unofficially concurred in, and there is reason for hope that progress will be made upon lines so reasonable and consistent as those proposed.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1897, p. 443.)

[Inclosure.]

Mr. Breckinridge to Count Mouravieff.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 8–20, 1897.

YOUR EXCELLENCY: Referring to my note of June 27–July 9, in which I had the honor to express assurance of the satisfaction of my Government in the generous recognition by the Imperial Government of the mitigating conditions in the case of Mr. Grenz, a Russian subject who became an American citizen without the consent of the Imperial Government, and his acquittal in accordance therewith, I now have the honor to say that I am in receipt of a dispatch from my Government fully expressing its sentiments in regard to that and other kindred matters.

My Government charges me to make known to the Imperial Government that while recognizing the extreme doctrinal differences which arise from different historical traditions, it yet appreciates and reciprocates the sentiments of consideration and respect which has been shown. It is pleased to recognize the good disposition shown by the administrative and judicial authorities of the Empire, in accordance with its established laws and practice toward personally deserving persons of conflicting allegiance.

It is noted that it was in this spirit of reasonable accommodation and mutual respect which enabled the two Governments, after many failures through a long series of years, to at length agree upon a convention of extradition; and it is believed that the same spirit, so historically maintained, will continue to ameliorate and remove the practical differences which may exist or occasionally arise in the course of the growth and increasing intercourse between the two nations.

Concerning the matter of travel and convenience of citizens about whose nationality there is no question, but of the Jewish race, which is subject to special regulations within the Empire, the same dispatch desires me to call attention to a practice by the imperial officials abroad, which is objectionable and seemingly not at all required by the laws of the Empire.

In this connection I beg to cite the note to this legation of His Excellency Prince Lobanoff, dated June 26–July 8, 1895, and a note from the same to the same, dated August 12–24, 1895. In these communications, accompanied by an extract of the Russian law upon the subject, his excellency stated that in the case of a Jewish banker, chief of a commercial house, and certain other enumerated classes of business men of

known importance of the Hebrew race, the imperial legations and consulates were authorized to issue and visé passports for them to enter Russia according to the same regulations which apply to all foreigners who seek to enter the Empire, the only condition being that the acting official shall inform his excellency, the minister of the interior, of any passport granted or viséed for an Israelite of the category named.

Notwithstanding the foregoing provisions of the law, it seems that the imperial officials hesitate to act in the manner indicated. A number of cases of this character have recently been brought to the attention of my Government, and it is believed that by simply amending the practice stated, and in accordance with existing law, a great inconvenience to this unobjectionable category of our citizens can be relieved, and the irritating incidents arising therefrom can be obviated.

There is no difficulty in the United States of any citizen of the category named (and there can be but little difficulty with such persons applying for a visé abroad) in giving satisfactory commercial or official evidence of his identity and character. So I submit this feature to your excellency with the hope that it may be acceptable.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1897, p. 444.)

[Banishment of John Ginzberg.]

Mr. Peirce to Mr. Sherman.

LEGATION OF THE UNITED STATES,
St. Petersburg, January 25, 1897.

SIR: I have the honor to acknowledge the receipt of your No. 354 of January 4, inclosing copy of a letter from the governor of Montana in regard to the case of John Ginzberg.

Ginzberg has been, at my request, sent from Loguishin, in the Province of Minsk, to Libau, from which port Mr. Neils P. Bornholdt, United States consul at Riga, who has a large shipping business, has promised for him opportunity to work his passage to Antwerp. I have requested Mr. Bornholdt to instruct his agents to hand over to Ginzberg 95 rubles, the amount of draft which has been received for him. As this is to Mr. Breckinridge's order, I have told Mr. Bornholdt that I would personally be responsible tor the payment to him of the amount, but that I awaited the return of the minister before remitting. Ginzberg's departure for the United States may be expected in the course of the next 10 days.

I may add with regard to this case that on the occasion of my last visit to the foreign office regarding him the officer immediately in charge of the documents in his case remarked with exclamation that according to usual practice he had been very leniently dealt with.

I have, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires ad interim.

(Foreign Relations, 1897, p. 435.)

Mr. Breckinridge to Mr. Sherman.

LEGATION OF THE UNITED STATES,
St. Petersburg, March 8, 1897.

SIR: Referring to the department's No. 372, of February 13, I have the honor to say that advices from our consul at Riga, Mr. Bornholdt, inform me that Mr. John Ginzberg has sailed from Libau for London by the steamer *Kiew*.

It gives me pleasure to state in regard to this protracted and interesting case that during my absence upon leave it has been followed up with zeal and discretion by Mr. Peirce, the chargé d'affaires ad interim, and that his efforts received the cordial and efficient cooperation of Mr. Bornholdt, our consul at Riga. Mr. Ginzberg, by the course followed, has been slowly, but as rapidly as possible, relieved from the embarrassments that were found to exist even after his acquittal; and it is a great relief to be able to report that he is at last out of the Empire and safely on his way home.

Remittance of 95 rubles has been made to Mr. Bornholdt to cover money advanced by him to Mr. Ginzberg.

I may remark that an apparent result of the continuous and earnest efforts of the past two or more years is some amelioration of the unbending severity that previously

marked the policy of the Russian Government in cases of this kind. Until, however, the still ineffectual efforts to effect a conventional arrangement with Russia, upon the subject of expatriation, are more successful, our citizens of Russian origin, unless with previous Russian consent, expose themselves to the gravest hardship by returning to the Empire.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

(Foreign Relations, 1897, pp. 435–436.)

Mr. Sherman to Mr. Breckinridge.

DEPARTMENT OF STATE,
Washington, March 25, 1897.

SIR: I have been gratified to receive your No. 501, of the 8th instant, announcing the departure of John Ginzberg for the United States and commending the course of the secretary of your legation when in charge of his case.

Its happy disposition may illustrate the advantage of dealing with such matters in a friendly way, without unnecessary argument on the principles involved, as to which the views of the United States and Russia are apparently irreconcilable.

Respectfully, yours,

JOHN SHERMAN.

(Foreign Relations, 1897, p. 436.)

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.

DEPARTMENT OF STATE,
Washington, April 1, 1901.

Notice to American citizens formerly subjects of Russia who contemplate returning to that country.

The information given below is believed to be correct, yet it is not to be considered as official, as it relates to the laws and regulations of a foreign country.

* * * * * * *

Naturalized Americans of Russian birth of the Jewish race are not allowed to enter Russia except by special permission. For this they must apply to the minister of the interior; but the department can not act as intermediary in making the application.

There is no treaty between the United States and Russia defining the status of American citizens of Russian birth upon their return to Russia.

No one is admitted to Russia without a passport. It must be viséed by a Russian diplomatic or consular representative. Upon entering Russia it should be shown at the first Government house, and the holder will be given another passport or permit of sojourn. At least 24 hours before departure from Russia this permit should be presented and a passport of departure will be granted and the original passport returned. A fresh permit to remain in Russia must be obtained every six months.

(Foreign Relations, 1901, p. 453.)

Mr. Tower to Mr. Hay.

EMBASSY OF THE UNITED STATES,
St. Petersburg, January 10, 1901.

SIR: I have the honor to report to you the case of a naturalized citizen named Giovanni J. Margolin who has recently come to Russia and now asks this embassy to secure him the privilege of remaining here for an indefinite time.

The subject of this gentleman's request was brought to my attention by the United States consul at Riga, a copy of whose letter dated the 3d of December, as well as of the entire correspondence, is respectfully submitted herewith.

This Mr. Margolin is an Austrian by birth, 32 years of age, who emigrated to the United States in 1895, and was naturalized before the district court of the United States for the southern district of New York on the 2d day of October, 1900. He has

come to Russia with every apparent intention of remaining here, having, as he says, "a great number of relations in Russia and which are all connected with business houses of influence." As he is a Jew, however, he has been granted a limited permit, which, as you well know, is required under the provisions of the Russian law, by which he is authorized to reside within the Empire for three months. But not content with this, he calls upon this embassy to exert the influence of the United States Government in his behalf to the end that he may secure "permission to stop in this country as long as my passport." The passport which he presented is dated in Berlin the 1st day of November, 1900, and was issued there by the Hon. Andrew D. White, United States ambassador.

Under the receipt of this communication through Mr. Bornholdt, United States consul, I replied that I should require some further details as to Mr. Margolin's origin and nationality before I could take up his case, and that I wished to know more clearly what his connection is with America, and upon what ground he calls upon the Government of the United States to serve him.

Thereupon Mr. Margolin wrote me a letter of the 17th of December, from Vitebsk, which forms part of the correspondence hereto attached.

It appears from the details which I have been able to obtain that this man was naturalized only last October and left America at once, for we find him already in Berlin equipped with an American passport on the 1st day of November. He has no interest in the United States that I can discover; he has never paid any tax there; has never served upon a jury. In fine, he has rendered no service of any kind to the country.

Immediately upon coming to Europe, however, he seeks to employ his newly acquired citizenship, not for protection against personal injury, but for the acquirement of privilege in the furtherance of his own aims.

In order to ascertain definitely whether Mr. Margolin intends in good faith to return to the United States and perform there his duties as an American citizen or not, I wrote him on the 2d of January asking him whether he wished a permit to live in Russia for two years, the period for which he holds his present American passport, and whether he sought also to remain here permanently.

By his reply, dated the 6th of January, to which I have the honor to refer you, he informs me that he intends to live permanently in Russia if the imperial authorities will allow him to do so.

There is nothing to show that this man had any interest in becoming an American citizen beyond the purpose of using the advantages of citizenship in order to obtain privileges abroad which certainly would not have been asked for in his behalf by his own representatives if he had come to Russia directly from the country of his origin. Nor is it unreasonable, from his own presentation of the case, to assume that he has already substantially abandoned his duties and obligations as an American citizen.

It is true he declares in his letter of the 17th of December, "I expect by importing different American novelties exclusively for Russia, to approve as well with the interest of my country as I think it will provide convenient for my share." A statement which I incline to regard as an appeal to the sentiment than an indication of a serious purpose to develop American industry. And I have not been willing to comply with Mr. Margolin's request, because if we have on the one hand his unsupported declaration that he intends to introduce American wares into Russia, I respectfully submit that we have on the other a plain attempt to abuse an American certificate of naturalization.

CHARLEMAGNE TOWER.

(Foreign Relations, 1901, p. 446.)

Mr. Bornholdt to Mr. Tower.

UNITED STATES CONSULATE,
Riga, November 3, 1900.

SIR: Mr. Margolin, concerning whom you will receive simultaneously an official letter from this consulate, referred to a similar case, which he asserted had taken place some time ago.

In this case, he said, the permission (to stay in Russia) had at first been refused by the Imperial Government, but had been granted later on, in consequence of a direct appeal from the Hebrew in question to the United States President.

You are, of course, the best judge concerning the attention which this tale deserves. However, as I understand that Mr. Margolin intends, in case of refusal, to address

a similar appeal to the President, I have considered it not quite superfluous to mention to you what he told me.

N. P. BORNHOLDT.

(Foreign Relations, 1901, p. 448.)

Mr. Bornholdt to Mr. Tower.

UNITED STATES CONSULATE,
Riga, November 20, 1900.

SIR: According to the inclosed United States passport with Russian visé, the bearer of the same, Mr. Giovanni Margolin, has obtained the permission to stay in Russia for a period of three months on account of his being of Hebrew origin.

Mr. Margolin informs me that he has come to Russia with the intention of forming commercial relations here, and that for this purpose he deems it necessary to prolong his stay here for about two years.

Although this seems to be rather a long time, I make free, at the request of Mr. Margolin, to submit the matter to your appreciation in case it might be possible to obtain the petitioner the desired permission.

I have, etc.,

N. P. BORNHOLDT,
United States Consul.

(Foreign Relations, 1901, p. 448.)

Mr. Tower to Mr. Bornholdt.

EMBASSY OF THE UNITED STATES,
St. Petersburg, December 6, 1900.

SIR: I have duly received your letter of the 3d of December, and your personal letter of the same date, in regard to Mr. Giovanni Margolin, who wishes to have a permit which he has received from the Russian authorities to reside for three months within the Empire extended for a period of two years.

Before taking up this case I shall require some further detail as to Mr. Margolin, the country of his origin, and his connection with America. As he is a naturalized citizen of the United States, I wish you would ask him to state to me where and when he was born, when he emigrated to America, where he lived, and what his occupation was while there and when he left there. Ask him also to state whether he pays any taxes in the United States; and if so, how much and where. I wish further to know whether he has ever served on a jury there; and in general what American interest he may have, if any, to strengthen his claim for protection as an American citizen.

I return you herewith the certificate of naturalization of Giovanni J. Margolin, before the district court of the United States for the southern district of New York, on the 2d day of October, 1900; and the passport of Giovanni J. Margolin, No. 2386, issued by the Hon. Andrew D. White at Berlin, November, 1900.

CHARLEMAGNE TOWER.

(Foreign Relations, 1901, p. 448.)

Mr. Margolin to Mr. Tower.

VITEBSK, *December 4, 1900.*

YOUR EXCELLENCY: A few days ago I received a letter from the United States consul at Riga, where I applied for kind assistance to protect my sojourn in Russia, as an American citizen, with the instruction to furnish the embassy on the direct way with some further details in regard to my person. I hereby take the liberty to comply with the order of the consul, and I venture to hope that the honorable embassy will convey my petition. The origin of my country is Austria, and I was born on the 10th of October, 1868, at Stanislau, Austria, of Jewish parentage. After finishing different colleges of education in Austria and Germany, I went to New York with the purpose of entering a business career. I landed in New York on the 4th day of January, 1895, and lived there all the time until October 4, 1900, when I sailed for Europe. I was employed there for several years in prominent commercial houses as a bookkeeper. After acquiring some of the important methods how to transact and

own business, and possessing partly the American language, I represented in partnership wih another gentleman under our own firm a large concern in "American novelties" for sale in the State of New York. Finally I was engaged in the real estate business for myself until my departure, with a success capable of being named. I have never been taxed there and I have never served upon a jury. My intention and good will are to stay a citizen of the United States. Under the circumstances that I have a great many relatives in Russia and which are well connected with business houses of influence, I expect, by importing different American novelties, exclusively for Russia, to approve as well with the interests of my country, and I think it will provide convenient for my share. Therefore I request of the highly esteemed embassy to secure for me the permission to stop in this country at least as long as my passport, which I presume was sent to the embassy with my citizen papers by the consul at Riga.

Trusting that my petition will find a favorable assistance with the honorable embassy,

I have, etc.,

G. J. MARGOLIN.

(Foreign Relations, 1901, p. 449.)

Mr. Tower to Mr. Margolin.

EMBASSY OF THE UNITED STATES,
St. Petersburg, January 2, 1901.

SIR: I have received your letter, dated at Whitebsk the 4th of December, 1900, in which you reply to the questions which I asked of Mr. Bornholdt, United States consul, in regard to your nationality and your naturalization in America.

You now request me to secure for you a permit to reside in Russia "at least as long as your passport." By this I judge you would like a permit for two years, with the privilege of having it renewed when you renew your passport. Is this not so, or do you wish a permanent residence in Russia?

CHARLEMAGNE TOWER.

(Foreign Relations, 1901, p. 449.)

Mr. Margolin to Mr. Tower.

VITEBSK, *January 6, 1901.*

YOUR EXCELLENCY: I have received your letter of January 2, with which your excellency had the kindness to honor me, and I will hasten to submit to your excellency an obedient reply. It will deign perfectly to my satisfaction if your excellency shall favor me with the grace to secure for me a permit to reside as long as my passport as issued by the esteemed embassy at Berlin for two years is current. In case my enterprises should exhibit a favorable result, in every respect, I would prefer, if possible, having the privilege of renewing your excellency's, for me, kindly obtained permit, together with my passport, after its expiration. I presume that to secure a permanent residence in Russia will be connected with many difficulties, therefore I have decided to aim at that idea. Finally, I take the liberty of mentioning the fact that the permission of my sojourn in Russia, originally granted to me by the Russian minister, as your excellency will kindly notice on my passport, will soon lose its validity, in consequence of which I hereby request your excellency to relieve my case, to your excellency's earliest convenience, with an affirmative success.

G. J. MARGOLIN.

(Foreign Relations, 1901, p. 450.)

Mr. Tower to Mr. Margolin.

EMBASSY OF THE UNITED STATES,
St. Petersburg, January 9, 1901.

SIR: I have received your letter of the 6th of January. You tell me, in reply to my inquiry, that you wish to obtain a permit to remain in Russia at least for two years, and, if possible, the right to live here permanently.

I have submitted your case to the Department of State, at Washington, and shall inform you immediately upon the receipt by me of its decision.

In the meantime I say to you that in view of the fact that you lived in the United States barely long enough to become a citizen; that you have never performed any service there whatever, or paid any taxes; that you left America immediately upon having obtained your certificate of naturalization, you are not likely to be looked upon as one in a position to call upon the United States Government to interest itself in securing a privilege for you abroad.

CHARLEMAGNE TOWER.

(Foreign Relations, 1901, p. 450.)

Mr. Hay to Mr. Tower.

DEPARTMENT OF STATE,
Washington, January 30, 1901.

SIR: I have to acknowledge the receipt of your No. 381 of the 10th instant, reporting the case of Mr. Giovanni J. Margolin, an Austrian by birth, Jewish faith, who emigrated to the United States in 1895, was naturalized October 2, 1900, then went to Europe, secured a passport dated November 1, 1900, at the United States embassy at Berlin, entered Russia with a permission as a Hebrew to stay three months, and who now asks the good offices of this Government in order to secure the extension of that permission on the part of the Russian Government, to the full term of the passport or indefinitely.

The department approves your view of the case. More satisfactory evidence should be forthcoming than is now submitted of Mr. Margolin's actual conservation of his acquired citizenship before the intervention of this Government should be exercised to procure for him the continued privilege of residence in Russia for which he applies.

JOHN HAY.

(Foreign Relations, 1901, p. 450.)

Mr. Hay to Mr. McCormick.

DEPARTMENT OF STATE,
Washington, April 20, 1903.

Mr. Hay states that it is persistently reported upon what appears to be adequate authority that there is great want and suffering among the Jews in Kishenef, and that their friends in the United States desire to know if financial aid and supplies would be permitted to reach the sufferers. Mr. McCormick is instructed to obtain the desired information without discussing the political phase of the situation.

(Foreign Relations, 1903, p. 712.)

Mr. McCormick to Mr. Hay.

AMERICAN EMBASSY,
St. Petersburg, May 9, 1903.

Mr. McCormick reports that it is authoritatively denied that there is any want or suffering among the Jews in southwestern Russia and that aid of any kind is unnecessary; that while the offer is appreciated in the spirit in which it was made, it is gratefully declined.

(Foreign Relations, 1903, p. 712.)

Mr. McCormick to Mr. Hay.

AMERICAN EMBASSY,
St. Petersburg, May 15, 1903.

SIR: Referring to your cablegraphic instructions in the matter of the alleged famine conditions among the Jews in Kishenef, I have the honor to inclose herewith a cutting from the London Standard of May 1, which will throw some light on the subject of that instruction.

I have, etc.,

ROBERT S. MCCORMICK.

[From the London Standard, Friday, May 1, 1903.]

When I arrived here late last evening, the Bessarabian capital presented all the appearance of a city suddenly evacuated by its inhabitants and committed to the charge of the military. At 11 p. m. not a civilian was to be seen on the streets, but the alternating patrols of infantry and cavalry were met with at intervals of a few hundred yards.

Under the terror of the last few days, people of all classes and conditions carefully shutter and bar their windows after nightfall. On crossing the municipal boundary my coachman was halted by a police inspector, to whom he handed a ticket received at the railway station, showing whence he brought his fare. In the hotel vestibule I find another inspector of police questioning a group of young men, all apparently Jews and refugee guests, who have temporarily deserted their homes for the greater security of the police-guarded hotel. In the cross corridors of the bel-etage I pass two other police inspectors similarly engaged in cross-examining guests and domestics. Several of the former, I oberve, wear bandages. One of these inspectors following me to the door of the apartment to which an attendant is conducting me, salutes me respectfully in military fashion, desires to know whence I come, and begs to be favored with a glance at my passport. His examination of my papers being satisfactory, and his demeanor unusually affable for an official of his class, I offer him my cigarette case, and essay, with a pretense of casual curiosity, to elicit some information with regard to the terrible and fatal tumult which has convulsed the city during the last few days—that is, during the Russian Eastertide. The attempt failed. The police inspector lauded the quality of my tobacco, smilingly observed that the discussion of tragic events was a bad soporific, and wished me spokoinoi notch. My room attendant goes about his duties in a curiously dejected and perfunctory manner. I ask him if he is fatigued and learn that he is a Jew who has lost two relatives in the murderous attack upon his coreligionists.

My early peregrinations of the city this morning were made under the favor of delightful sunny and genial spring weather, whose brilliance enhanced, indeed, the glaring desolation of the scene of wreck and ruin in the Jewish quarters, more especially and in all the chief thoroughfares generally.

I should say at the outset that Kishnef is for the nonce in a state of close siege. There are 15,000 troops in the city; 9,000 are kept in barracks under arms, and 6,000 infantry and cavalry are on patrol duty. All the infantry patrols and stationary pickets carry fixed bayonets, and the cavalry carbines are loaded with ball cartridges. These precautions, after the terrible outbreaks on Sunday, Monday, and Tuesday last, appear to be unnecessarily excessive. The popular tumult and outrages ceased simultaneously with the receipt of the order from St. Petersburg authorizing the governor and commandant to fire upon the rioters. As a matter of fact the military did not fire a shot during the frightful mêlée. So far as I can gather in the best-informed quarters, there were 56 Jews, including 3 women and 4 children, and 7 Russians killed in the emeute between Easter Sunday afternoon and Tuesday evening. There are 339 injured people in the hospitals, the great majority of whom are Jews and Jewesses, including about 40 young children. About 700 arrests were made. I witnessed this morning the funerals of five victims who succumbed to their injuries yesterday. Added to the number given above, this makes a total of 68 lives lost, and the fatal record is probably not yet compete.

Altogether, some 2,400 shops, magazines, stores, and booths were wrecked, and the windows of private houses, public buildings, banks, and commercial offices were wholly or partly shattered. Street kiosks were overturned and smashed, and signboards torn down and used as battering rams against shuttered windows and closed doors. The streets are still strewn with wreckage of all kinds of wares pillaged from the Jewish shops and booths. Desperate attempts were made upon the various banks and banking agencies, but these were saved by the military and are still under armed guards. In such leading and fashionable thoroughfares as the Alexandrofskaya and Pushinskaya, and in the immediate neighborhood of the official residences of the governor, the mayor, and the commandant, there was any amount of destructive havoc. Every shop in the block in which my hotel is situated is wrecked, and all the front windows of the hotel itself are shattered. It is in the Jewish quarter proper, however, in the bazaars and adjoining streets, that the full fury of the frenzied anti-Jewish rioters has left its desolating mark. Not a house or a shop was spared. The battered windows and doors are now nailed up with unsightly boards, which hide the looted interiors. To-day the Jews are venturing out of doors under the ubiquitous and protecting presence of the military. Here and there at courtyard gates and street corners, one sees small groups of sad and terror-stricken Jews and Jewesses, bemoaning their bereavements and material losses. The greater number appear with bandaged heads or arms in splints or slings.

There can be no manner of doubt that the outbreak took the form of a savage and merciless attack upon the Jews. During the Eastertide more especially the ignorant and fanatic orthodox Slav is prone to revenge the crucifixion of the Saviour upon his Hebrew neighbors, and once his passions, besotted or sober, are fully aroused, he becomes a wild animal. There is just a little doubt, however, that the popular tumult against the Jews was engineered by the organizers of the politically disaffected secret associations of the Russian industrial classes, whose ramifications are taking root all over the country. Their object is not so much a crusade against the Jews—since their "tenets of freedom" are, in principle at least, opposed to such persecutions—as a desire to discredit the imperial and local governments. Their guiding hands were certainly revealed on Monday and Tuesday last, when the mob assailed, happily unsuccessfully, one of the orthodox churches and the offices of the holy consistory of Bessarabia. For three days and nights past, and at the present moment, the cathedral of Kishnef is protected by four companies of infantry.

Although it is scarcely possible to believe that there is the slightest further danger or even the possibility of a renewal of the disturbances, not more than a score of shops in the whole city are open this afternoon. All the banks, commercial houses, and other places of business remain closed and guarded. The cavalry patrols have each been increased from 30 to 50 troopers, and the infantry patrols have single to double companies. The garrison commandant has had the main thoroughfares paraded at hourly intervals all day by battalions of infantry and half squadrons of cavalry, in addition to the regular patrols. The Bessarabets, a leading local journal, again publishes yesterday's stringent injunctions from the governor, Gen. Von Raaben, warning the unruly elements that no mercy will be shown to any disturber of the public peace, who is liable to be tried by drumhead court-martial, and summarily shot. The ordinary justice is suspended for a calendar month and replaced by martial law.

I am this evening credibly informed that three of the Russian victims were constables, and 29 members of the force are under hospital treatment for serious injuries. In the thick of the desperate fray in the Jewish quarter on Monday night 13 cavalry troops were dragged from their saddles and brutally beaten. The infantrymen came scatheless out of their many struggles with the infurated mobs, thanks to keeping their ranks well closed.

April 25.—The director general of the police, Lieut. Gen. Lopuchin, arrived here this morning from St. Petersburg; the same special train also brought Maj. Gen. Schostak, commander of the Eighth Army Corps, which includes the troops garrisoned in this city.

Two more of the Jews in hospital last night succumbed to their injuries. This brings the death roll to 70, of whom 63 were Jewish victims to the massacre.

Just before nightfall yesterday I had the opportunity of penetrating, unmolested by the police or military patrols and pickets, more closely into the lanes and alleys of the purely Jewish quarters. Whole streets and lanes, throughout their lengths, show nothing but sacked houses, shops and booths. The open doors and windows gape darkly like those of structures gutted by fire. The contents of the shops and booths have been pillaged and the furniture and fittings demolished, the private dwellings of the Jews meeting the same fate. It is a mystery to the spectator where the thousands of miserable refugees thus despoiled, expropriated, and brutally abused are hiding and herding. Some three or four thousand have fled to Benderi, Tiraspol, and Odessa. Whichever way one turns in the lower part of the city the same scenes meet the eye. There is one somewhat narrow street absolutely blocked between the trottoirs by more than a score of overturned and looted booths. It is curious—although quite customary under similar terrible circumstances—to observe the anxious solicitude with which the occupants of all the houses and shops left wholly or partially intact have hastened to display ikons and other sacred emblems or pictures conspicuously in every window, or lacking a sufficient number of ikons, have cut crosses out of white or colored paper, and stuck them on windows, doors, and outer walls. These are the external and visible signs meant to inform the rioters that the inmates are Christians.

I found opportunity this morning for a brief talk with a member of the medical staff of the city hospital. He substantially confirmed the numbers of killed and seriously injured given in my first dispatch. Concerning the reports of Jewish children having been torn limb from limb by some of the murderers, the doctor could only say that no such case or cases had come under his observation, but he admitted that many of the Jewish victims were murdered outright, and some of them who subsequently died in the hospital were badly mutilated. The Russian rioter seldom or never employs the knife. Small hatchets and stout wooden clubs, the latter frequently held by a wrist strap, and stones clutched in the hands and used as battering weapons, are the chief features of the ruffians' armory.

The population of Kishnef now approximates some 160,000, and includes some 65,000 Jews.

April 27.—I am this morning credibly informed that the governor, Lieut. Gen. Von Raaben, as well as the police master, Col. Khanzheneff, the latter's chief of staff, and two or three other local authorities are to be removed from their posts on account of their lack of promptitude, energy, and decision of action in the early and preventable stage of the dreadful emeute of last week. The minister of the interior, M. Von Plevhe, is expected here within the next few days. Notwithstanding the semi-official assurances given yesterday by the Bessarabetz that there were no more dangerous cases among the injured Jews in the hospital, three more have proved fatal within the last 24 hours. Altogether some 10,000 Jews have fled from the city. They are further alarmed no doubt by the sinister current reports of an intended and general popular outbreak against the Jews throughout the Province. The Roumanian elements of Moldavians and Wallachs are very numerous in this city, and their inimical feeling toward the Jews is quite as rancorous as those of the lower class Russians.

RECOGNITION BY RUSSIAN LAW OF JEWISH DIVORCES GRANTED BY JEWISH RABBIS.

Mr. Hay to Mr. McCormick.

DEPARTMENT OF STATE,
Washington, October 22, 1903.

SIR: To enable the department to answer several inquiries it has received, I shall be pleased if you will ascertain whether Jewish divorces granted by Jewish rabbis are recognized by the Russian law.

If such a law is in force a translation of its text is desired.

I am, etc.,

JOHN HAY.

Foreign Relations, 1903, p. 715.)

Mr. McCormick to Mr. Hay.

AMERICAN EMBASSY,
St. Petersburg, November 10, 1903.

SIR: With reference to the department's No. 56, of October 22, 1903, I have the honor to inclose herewith translations from the Russian code pertaining to the recognition by Russian law of Jewish divorces granted by Jewish rabbis, which were made for me by Mr. Berline, an attorney in good standing and by birth himself a Hebrew.

In addition to the memorandum sent to me by Mr. Berline, the translation of which is inclosed, he writes that the Russian law recognizes all certificates of birth, marriage, divorce, and death issued by Jewish rabbis, as well as all certificates given by ministers of the Jewish faith abroad to Russian Jewish subjects.

I have, etc.,

ROBERT S. MCCORMICK.

(Foreign Relations, 1903, p. 715.)

EXTRACTS OF LAW FURNISHED BY MR. BERLINE, OF THE ST. PETERSBURG BAR.

The principal sections of the Russian law which relate to the marriage, divorce, and separation of non-Christians are as follows:

Article 20 of the Civil Code (Chap. III) official edition, 1887.—Each race and each people, including heathen, are allowed to contract marriage according to the stipulations of their law or in conformity with the customs established, etc., without any participation whatsoever of the civil authorities or of the Christian ecclesiastical authorities.

Article 103 (Chap. IV).—Husband and wife must live together, consequently:

1. All acts tending to an arbitrary separation of the couple are rigorously prohibited.

2. The wife must follow the husband upon emigration, entrance into service, and likewise upon any change of residence.

Article 1325 (Vol. XI) of the regulations concerning the Jewish faith (official edition of 1896).—The functions of rabbis consist (1 and 2 unnecessary) (3) in exercising to the full extent the rite of circumcision, the giving of fore names to the newly born, in celebrating marriages and pronouncing divorces, attending funerals, and keeping registers of the civil status of Israelites, presenting them to the proper authorities in conformity with the rules prescribed in the laws on social classes.

(Foreign Relations, 1903, p. 715.)

Mr. Hay to Mr. McCormick.

DEPARTMENT OF STATE,
Washington, July 1, 1904.

SIR: On the 21st of April last the House of Representatives of the United States adopted a resolution in the following words:

"*Resolved*, That the President be requested to renew negotiations with the Governments of countries where discrimination is made between American citizens on the ground of religious faith or belief to secure by treaty or otherwise uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States, in order that all American citizens shall have equal freedom of travel and sojourn in those countries, without regard to race, creed, or religious faith."

The subject to which this resolution relates has heretofore been the occasion of friendly but sincerely earnest representations to the Russian Government on the part of that of the United States. The instructions on file in your office and the correspondence had by your predecessors with the imperial foreign office leaves no doubt as to the feeling of the United States in regard to what it has constantly believed to be a needlessly repressive treatment of many of the most reputable and honored citizens of the United States. Similar views have been expressed by my predecessors as well as by myself in conference with the representatives of Russia at this Capital. That these friendly representations have not hitherto produced the results so befitting the close intimacy of the relations of the two countries for more than a century and so much in harmony with their traditional amity and mutual regard is not, in the President's judgment, ground for relaxing endeavors to bring about a better understanding, if only on the score of expediency and reciprocal convenience.

I have therefore to instruct you to inform Count Lamsdorff that the text of the foregoing resolution has been sent to you for your information and for your guidance in interpreting this expression of the feeling of the people of this country, through their direct representatives, as to the treatment of the citizens in question. You will make known to his excellency the views of this Government as to the expediency of putting an end to such discriminations between different classes of American citizens on account of their religious faith when seeking to avail themselves of the common privilege of civilized peoples to visit other friendly countries for business or travel.

That such discriminatory treatment is naturally a matter of much concern to this Government is a proposition which his excellency will readily comprehend without dissent. In no other country in the world is a class discrimination applied to our visiting citizens. That the benefits accruing to Russia are sufficient to counterbalance the inconveniences involved is open to question from the practical standpoint. In the view of the President it is not easy to discern the compensating advantage to the Russian Government in the exclusion of a class of tourists and men of business whose character and position in life are such as to afford in most cases a guaranty against any abuse of the hospitality of Russia and whose intelligence and sterling moral qualities fit them to be typical representatives of our people and entitle them to win for themselves abroad no less degree of esteem than they enjoy in their own land.

I have, etc.,

JOHN HAY.

(Foreign Relations, 1904, p. 790.)

Mr. McCormick to Count Lamsdorff.

AMERICAN EMBASSY,
St. Petersburg, August 22, 1904.

YOUR EXCELLENCY: Under instructions from my Government which I found awaiting me on my return from Carlsbad, I have the honor to bring before you for consideration at this time a subject which has been the occasion from time to time of friendly but sincerely earnest representations to the Russian Government on the part of that of the United States.

The feeling of the people of the United States, which is deep and widespread with reference to this subject, found expression in a resolution adopted on the 21st of April last by the House of Representatives.

I assume that your excellency's attention was called to this resolution at the time of its adoption by His Excellency Count Cassini, His Imperial Majesty's ambassador at Washington, and that a copy of the resolution was transmitted to you for your infor-

mation. As your excellency doubtless noted at the time, this resolution is conceived in a friendly spirit and expressed in moderate terms, such as to recommend its reception in a similar spirit as well as the consideration of the subject which it brings forward.

The text of this resolution was sent me for my information in interpreting this expression of the feeling of the American people as to the treatment of the citizens in question, and I beg to insert the resolution as placing that expression on record, although, as above indicated, a copy of the resolution has already been transmitted to you by Count Cassini.

[Fifty-eighth Congress, second session.]

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
April 21, 1904.

Resolved, That the President be requested to renew negotiations with the Governments of countries where discrimination is made between American citizens on the ground of religious faith or belief, to secure by treaty or otherwise uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States, in order that all American citizens shall have equal freedom of travel and sojourn in those countries without regard to race, creed, or religious faith.

This resolution voices not only the feelings of the people, but also a principle which lies at the foundation of our Government. It is for this reason that the question has been, is, and always will be a live question with us, and liable to become acute and be brought forward at some time in such a way as to seriously disturb the friendly relations which have always existed between Russia and the United States.

Aside from the belief that the treatment accorded by Russia to many of our most reputable and honored citizens is needlessly repressive, public opinion, as your excellency knows, plays a large part in the foreign relations as well as domestic affairs with us, and when underneath this public opinion there lies an important principle, as is the case in the United States, it can not be left out of account by those who have maintained the close relations which it is desired by my Government to see maintained with this great Empire and her august ruler.

"That friendly representations," as set forth in my instructions, "have not hitherto produced results befitting the close intimacy of the relations of the two countries for more than a century, and so much in harmony with their traditional amity and mutual regard is not, in the President's judgment, ground for relaxing endeavors to bring about a better understanding, if only on the score of expediency and reciprocal convenience."

Moreover, in no other country in the world is class discrimination applied to our visiting citizens, nor can it be seen from the practical standpoint that the benefits accruing to Russia are sufficient to counterbalance the inconvenience involved. In the view of the President, "it is not easy to discern the compensating advantage to the Russian Government in the exclusion of a class of tourists and men of business whose character and position in life are such as to offer in most cases a guaranty against any abuse of the hospitality of Russia and whose intelligence and sterling moral qualities fit them to be typical representatives of our people and to win for themselves abroad a no less degree of esteem than they enjoy in their own land."

It seems to me that there are higher grounds to which to appeal and to which it is opportune to appeal at this present time than those of expediency and reciprocal convenience, evidences of the influence of which have manifested themselves in steps already taken toward the alleviation of the condition of the representatives of the race referred to within the Empire.

At this time, too, when the world is extending its congratulations to His Majesty on an event which has brought happiness to himself and gratification to his friends; when he is extending the imperial clemency to some justly under the ban of the law, it would seem fitting to take under consideration this larger question, a solution of which would not only tend to draw closer the relations between this great Empire and the United States, but also to arouse a responsive feeling of good will throughout the world.

The railway and the telegraph are breaking down the barriers of distance which have until now kept apart the peoples of the various nations of the earth; Russia has made a notable contribution to this object in the great system of railways constructed within the Empire, which are operated in close connection and harmony with those of the outside world. To throw this great railway system open more fully to those who would avail themselves of it for legitimate purposes, is but to dedicate it to a use which would be of the greatest good to the Empire and the world at large.

Events have proven that no artificial barrier can keep out those who come with hostile intent or who from without seek to circulate ideas of a hostile character. Is

there any reason, therefore, why at least serious consideration should not be given to the views of my Government as to the expediency of putting an end to such discriminations as now exist in Russia between different classes of American citizens on account of their religious faith when seeking to avail themselves of the common privilege of civilized peoples to visit other friendly countries for business or for travel?

In transmitting the views of my Government at this length and personally adding some reasons for favorable action which seem to me to be cogent, I have been actuated by the desire, as your excellency will appreciate, to contribute something toward those friendly relations which have marked the past and which I value. For this reason I lend myself most earnestly to the work of carrying out my Government's instructions, in the hope that the result will be such as to contribute to the removal of one question of disturbing character from the realm of discussion by a mutually satisfactory understanding concerning it.

I take this occasion to renew to your excellency the assurance of my high consideration.

ROBERT S. MCCORMICK.

Foreign Relations, 1904, p. 791.)

Mr. McCormick to Mr. Hay.

AMERICAN EMBASSY,
St. Petersburg, October 7, 1904.

SIR: I have the honor to transmit to you herewith a copy and translation of a note ceived from Count Lamsdorff, imperial minister for foreign affairs, in reply to mine (August 22 last, relating to the resolution adopted by the House of Representatives of the United States on April 21 last, concerning "the freedom of travel and sojourn in Russia, without regard to race, creed, or religious faith," of all American citizens, which was transmitted to me in your dispatch No. 127, of July 1 last.

I have, etc.,

ROBERT S. MCCORMICK.

(Foreign Relations, 1904, p. 793.)

Count Lamsdorff to Mr. McCormick.

MINISTRY FOR FOREIGN AFFAIRS,
St. Petersburg, October 4, 1904.

MR. AMBASSADOR: It is with special interest that I have become acquainted with the consideration expressed by your excellency in your note of August 9–22, relative to certain facilities to be granted to American citizens of the Hebrew faith, with regard to their entry into Russia. In this connection I have the honor to inform you that a special commission has been instituted by supreme order on December 17, 1903, with the ministry of the interior, in view of generally revising the passport regulations actually in force.

The imperial ministry of foreign affairs having appointed a representative with this commission, I shall not fail to bring, through his intermediary, to the knowledge of that commission your views on the subject and the desire of the Federal Government, of which your excellency has been the interpreter.

I avail, etc.,

LAMSDORFF.

(Foreign Relations, 1904, p. 793.)

Ambassador Meyer to the Secretary of State.

AMERICAN EMBASSY,
St. Petersburg, May 5, 1905.

SIR: I beg leave to report that the ukase issued by the Tsar on the Russian Easter Sunday (Apr. 30) makes religious freedom to all Russian sects, except the Jews, an accomplished fact. * * *

If the ukase is carried out in all its completeness, it will be the greatest concession of individual liberty since the liberation of the serfs, and may be the first step toward a separation of church and state.

I have, etc.,

G. v. L. MEYER.

(Foreign Relations, 1905, p. 767.)

Chargé Eddy to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, November 5, 1905.

(Mr. Eddy reports that the American consuls at Riga and Rostoff have asked for military protection. The same has been asked for and has been obtained for Riga and will also be given to the consulate at Rostoff. The consul at Odessa reports that severe conflicts between Jews and Russians were begun by the Jews. The fighting is still going on and probably thousands of Jews were killed. American interests at that place are not threatened. The situation at Warsaw is serious. Conflicts continue between the Poles and the Russian army. At Moscow everything is quiet. The people have resumed work at St. Petersburg. A large meeting occurred to-day, without conflict, after the funeral services of those killed in the recent disturbances. Large crowds assembled, composed principally of sightseers. Important concessions have been made to Finland.)

(Foreign Relations, 1905, p. 779.)

TREATMENT OF JEWS IN RUSSIA.

The Secretary of State to Ambassador Meyer.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 22, 1905.

(Mr. Root informs Mr. Meyer that many influential Hebrews in this country are endeavoring to raise relief funds, being greatly distressed over the reports of Jewish loss of life and suffering in the recent outbreaks. Requests him to furnish as accurate report of these occurrences as possible, giving the number of killed, wounded, sick, and destitute, and the losses sustained.)

(Foreign Relations, 1905, p. 831.)

Chargé Eddy to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, November 25, 1905.

(Mr. Eddy reports that about 100 Jews were killed and wounded in Warsaw; that great destitution prevails among the poorer classes, but that Jews have suffered no more than Christians. Bread and provisions to the value of 10,000 rubles are being distributed daily. As far as known, no Jews have been killed in the district of Batum. Seven Jews were killed and 25 wounded in the Riga district, and little or no destitution prevails there. Suffering and destitution at Odessa are great—560 Jews killed and 2,000 are in the hospitals.)

(Foreign Relations, 1905, p. 831.)

Chargé Eddy to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, November 26, 1905.

(Mr. Eddy reports that 15 Jews were killed and 30 wounded at Rostoff; that about 11,000 were ruined financially, the loss to Jews there amounting to about 7,000,000 rubles. In the neighboring towns the losses of the Jews were severe, chiefly in Marinopol, Ghenitchesk, Luganak, Bahmut, and Ekaterinoslav.)

(Foreign Relations, 1905, p. 831.)

Chargé Eddy to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, November 29, 1905.

(Mr. Eddy reports that no further accurate information in regard to the destitution of the Jews and the losses sustained by them can be obtained. No Jews were injured at St. Petersburg and Moscow.)
(Foreign Relations, 1905, p. 831.)

The Acting Secretary of State to Ambassador Meyer.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 7, 1906.

(Mr. Bacon states that grave fears are felt in this country by relatives of the Jews in Russia, who believe that mob disturbances and unlawful attacks are planned for Easter, and wants to know what information Mr. Meyer has as to the precautions which have been taken to avert the dreadful events of former years.)
(Foreign Relations, 1906, p. 1296.)

Ambassador Meyer to the Secretary of State.

[Telegram.—Paraphrase.]

ST. PETERSBURG, *April 9, 1906.*

(Mr. Meyer states that he has been assured by N. Witte that there will not be any disturbances, and that the minister of the interior sent out a circular to all the governors saying they must hold the police responsible, and that this has reassured the chairman of the Jewish committee. Mr. Meyer says that he thinks that disturbances will occur in isolated places on account of the ill feeling of some subordinates.)
(Foreign Relations, 1906, p. 1296.)

Ambassador Meyer to the Secretary of State.

AMERICAN EMBASSY,
St. Petersburg, June 16, 1906.

SIR: I beg to report that Thursday, June 14, Corpus Christi Day, was the anniversary of the saving of Bielostok from cholera. The day was observed by orthodox processions, which were interrupted by pistol shots from the tops of certain Jewish houses, supplemented by the throwing of a bomb. This created a terrible commotion, resulting in the massacre of Jews and much loss of life on both sides.

It is difficult to obtain authentic and reliable information concerning the affair. The report, however, appears to be confirmed from several sources that the authors were Jewish anarchists, who fired revolvers at the Russian Church procession and killed several people taking part in it. This occasioned uprisings against the Jews, and outrages by rioters as well as destruction of Jewish property. The troops have dislodged bands of rioters, and order is being slowly restored.

The exact number of victims is unknown, but 100 killed and 250 wounded is thought at this time to represent the casualties.

Bielostok is a town of about 60,000 inhabitants. Martial law has been proclaimed and additional troops are arriving.

Messrs. Shtchepkin, Arokantseff, and Jakobson, members of the Duma, specially appointed as a committee to investigate as to the real causes of the late disturbance and massacre, have left for Bielostok.

I have, etc.,

G. VON L. MEYER.

(Foreign Relations, 1906, p. 1296.)

Ambassador Meyer to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY, *St. Petersburg, June 23, 1906.*

(Mr. Meyer states that he has been advised by a responsible party, who has just returned from investigating the massacre of the Jews last week, that 100 were killed and nearly 100 wounded, that there were several cases of mutilation, but none of ravishing, and that the rioters plundered considerable property of the Jews. He adds that evidence points to the work and enmity of the lower local military and police officials, who acted without instructions from St. Petersburg.)

(Foreign Relations, 1906, p. 1297.)

Ambassador Meyer to the Acting Secretary of State.

AMERICAN EMBASSY, *St. Petersburg, July 13, 1906.*

SIR: I beg leave to inclose herewith the official communication on the disorders at Bielostok, and a copy of a letter[1] received from Mr. Stolypin, minister of the interior.

I have, etc., G. VON L. MEYER.

(Foreign Relations, 1906, p. 1297.)

[Inclosure.]

OFFICIAL COMMUNICATION ON THE DISORDERS AT BIELOSTOK.

ST. PETERSBURG, 1906.

On the 1st of June last there occurred some very regrettable disorders at Bielostok, involving the death of 82 persons, of whom 7 were Christians and 75 Jews; besides 78 persons (18 Christians and 60 Jews) received more or less serious wounds, and 169 dwellings and shops belonging to the Jewish inhabitants of the city were demolished, causing damages estimated at 200,000 rubles.

Deeming it his bounden duty to have a rigorous investigation made into the causes of this deplorable event as soon as possible, the minister of the interior at once intrusted this mission to Mr. Frisch, a member of his council fulfilling the office of marshal of the court of His Majesty the Emperor.

The information gathered by this envoy, as well as that obtained from other sources through the efforts of the Government, enables the following account of the events which took place on June 1 to be prepared, the underlying causes being at the same time set forth.

The city of Bielostok, which contains about 100,000 inhabitants, has become within recent years the chief center of the revolutionary movement in the western section of the Empire. In the midst of the local population, of whom 75 per cent are Jews, numerous revolutionary organizations have been formed, some of which are radically anarchistic. These organizations, without any regard whatever for the interests of the peaceful and working population, pursue their purpose with dogged persistence and with weapon in hand by the means of attempts against the lives of the police and of the garrison troops stationed there for the sake of maintaining public order and opposing the development of revolutionary activity. The members of this organization have even adopted a distinctive dress in the shape of a uniform, which serves to determine their identity, and they have established their central headquarters in the Sourayskaia, one of the streets of the city, where they do not allow either the police or the troops to penetrate.

The criminal machinations of these revolutionary societies became more extensive in 1905, and were signalized by the whole series of murders and attempts against the lives of the police officers and the garrison soldiers, beginning with the murder of Chief of Police Metlenko, which was followed by the murder of the chief of police of the Eltschine district; the attempt made June 8 against the life of Chief of Police Polenkine, who was wounded; that of July 21, made by means of a bomb against the Assistant Chief of Police Goubsky and Commissioner Joulkevitch, both of whom were wounded; that of August 24 against Police Commissioner Samson; the murders, committed on different dates, of Policemen Mosguere, Moniechko, and Barantsevitch, and the attempts made against Police Corporals Savitsky and Costitsky, who were wounded, as were also eight policemen.

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[1] Not printed.

Last September, after Bielostock was declared to be in a state of siege, the activity of the terrorists was relaxed, but it manifested itself with renewed vigor March 1 of this year, when the siege was raised. Without mentioning the numerous shots fired at the patrols and the military rounds, a new series of murders and attempts against the lives of the officials began at this time. On March 4 Commissioner Rasky was wounded and his assistant, Koultschinsky, killed; on March 18 the noncommissioned officer of the gendarmery, Rybansky, and the baggage-master, Syralevitch, were killed; on April 29 an attempt was made against the life of Policeman Davydoff; on different dates during the month of May Policemen Zenevitch and Alexietaschouk were wounded; Policeman Cheymann was wounded; three soldiers of the Vladimir Regiment were wounded; the Cossack Lopatine was killed; on May 28 Chief of Police Berkatscheff was killed by shots fired from the crowd in Sourayskaia Street, and finally on May 29 the soldier, Arsentseff, was killed. Within this same period six attacks were made with bombs by the terrorists against the buildings of local manufacturers, as well as against a banking office at Bielostock.

Within a space of three months, from March 1 to June 1 of this year, the crimes of a terrorist character committed against officials and private individuals of the city gave rise to 45 judicial investigations. In almost all the cases the authors of these crimes failed to be discovered, for the eyewitnesses, fearing the vengeance of the terrorists refused to testify.

This series of attempts against the life, as well as other acts of violence committed against the peaceful inhabitants, including Jews, had produced a state of panic among the people of Bielostock, and when the chief of police, Derkatscheff, who enjoyed the public esteem of all the orderly people of Bielostock, whether Christians or Jews, was murdered on May 29, this crime brought the feeling of panic, as well as the general irritation against the promoters of these disturbances, to the culminating point. Rumors were spread about the city that the terrorists had decided to massacre all the officials, and at the same time the report was circulated that preparations were being made for the pogrom (destruction) of the Jewish population, among whom, according to the general opinion, all the criminal attempts had originated. While these rumors were taking form and maddening all the inhabitants, confusion set in among the ranks of the police, the members of which became more and more inefficient. The best police officers had been killed, wounded, or crippled, and the others fearing for their lives had hastened to resign. To supply their places, and especially that of policemen, it became necessary, owing to the lack of volunteers, to appoint persons who in most cases had not been trained at all for this employment, so that they had continually to be changed. Since June, 1905, seven persons had been successively appointed in Bielostock to the office of chief of police, and three police officers to whom this position had been offered refused to accept it.

During this same period five persons had successively held the office of assistant chief of police. It has been the same with the police commissioners and their assistants, who had continually to be replaced. In the absence of anyone desirous of holding these positions it was necessary to recruit persons from different parts of the Grodno government and to intrust those offices to them provisionally. The circumstances above described combined together to create a state of apathy and a lack of initiative among the police, who even hesitated to show themselves in certain quarters of the city. Thus, in Sourayskaia Street, where the revolutionary organizations were more particularly concentrated, it had been necessary to withdraw all the police officers from duty, because those sent there inevitably became the victims of murderous assaults.

The overexcitement of the population of the city on the one hand, and the disorganization of the police on the other, had created a state of affairs favorable to the outbreak of disorders with an irresistible force at the slightest provocation. This provocation was furnished June 1, when a fresh assault, audaciously committed by the enemies of public order, brought about an outburst of general indignation on the part of the Christians of Bielostock.

On this day it was customary to celebrate religious ceremonies, which are followed by two processions through the city, one being orthodox, in commemoration of the return of the United Greeks to the Russian Church, and the other being Catholic, on the occasion of the Corpus Christi day. These solemnities bring together not only all the inhabitants of the city, but also attract a great number of people from the surrounding country. In expectation of this influx of people, and in view of the excitement prevailing among the inhabitants, extraordinary measures had been taken to preserve order. A reinforcement of the police had been arranged and an agreement reached between the chief of police and the military authorities whereby the city was divided into two sections, in which the guards of soldiers had been doubled and placed under the respective orders of appointed chiefs, und[illegible] command of the head of the infantry division.

In spite of all these precautionary measures there were two or three places in the city where explosive devices were thrown at the crowds following both the orthodox and the Catholic precessions. It was the same with regard to the faithful who began to disperse at the end of the ceremony. The processions were fired on, besides, with revolvers. Those who suffered from the explosion of these devices are still at this time under treatment at the city hospital; they are Stanislao Miliousky, janitor of the city school, and three women (two of whom were married to policemen), viz, Anna Demidiouk, Alexandra Minekowsky, and Marie Commissariouk. As far as Miliousky and Minekowsky are concerned, the fact of their having been wounded by the bursting of an explosive device was established by the testimony of the victims and confirmed by the juridico-medical certificates given by the physicians Jdanoff, Granowsky, and Rosenthal, assisted by Dr. Epstein, of the Israelite hospital. These revolting crimes and sacrileges brought to the spot a detachment of troops who opened fire on the houses from which it was supposed the revolver shots had been fired at the procession. Almost at the same time the "pogrom" (destruction) of the Jews by the Christian population broke out with the force of an irresistible element, without distinction of innocent or guilty. In certain places the Jews armed themselves to repel the attack, which increased still more the fury of the overexcited crowd.

To follow out the course of events on June 1 in all their details when the disorders ceased in certain parts of the city only to begin elsewhere, and to gather the truth from the declarations of the victims and discriminate it from their falsehoods, either intentional or unconscious, is manifestly the mission of the judicial authorities who already have the matter in hand and are prosecuting it with all possible energy. While any positive conclusion before the completion of the judicial investigation would be premature, the Government believes that it may affirm one fact as being well established, viz, that the crimes against life and property were for the most part the work of small bands of evildoers from among the population of the city and the surrounding country who, acting separately, attacked the houses and stores of the Jews and chose for this purpose the part of the city where no troops were stationed. In the great majority of cases the disturbances were quelled by the detachment of troops who arrived in good time. Toward 6 p. m. the pillagers had been driven away everywhere, and at the principal entrances of the city military patrols barred the road against the inhabitants of the surrounding region who started toward the city at the first news of the "pogrom." The disorders, which had ceased in the evening were renewed in the morning. Attempts were made to sack a few more shops, while at the railroad station, where there was but a small guard owing to the troops being detailed to the center of the city, the Jews were suddenly attacked by a numerous crowd. Toward the middle of this day the revolutionary organizations proceeded to make a series of attacks against the troops which did not end until the night of June 4. The patrols were fired upon as well as the police guardhouses and the buildings of the staff of the Sixteenth Infantry Division and the Fourth Cavalry Division, and even the Government banking establishment was not spared. Three soldiers were wounded in these affrays. The troops, in replying to these attacks, fired on the houses from which the shots proceeded, and, as was to be expected, the victims included not only those guilty of armed aggression, but also peaceful inhabitants who were in the houses.

The Government has already taken measures in accordance with the data secured in the administrative investigation in order to render the activity of the local authorities more conformable to the exigencies of good order and normal conditions. As to the principal participants in the bloody disturbances, as well as their accomplices and the instigators of the crime, the courts will, without any doubt, exercise their full rights in discovering, trying, and punishing them. The Government will, on its part, make it a duty to lend all the assistance possible to the courts in order that not one of the guilty parties may escape justice and the punishment which he deserves.

The Government indignantly denies the rumors spread abroad that the anti-Jewish riots at Bielostock took place with the knowledge and connivance of the local administration and of the troops at that place. The Government deemed it its duty to express the firm conviction that the true cause of the lamentable events at Bielostock must primarily be sought in the machinations of the revolutionary parties. It was the revolutionists who, by an uninterrupted series of murderous attacks upon the authorities and private individuals, wrought up a peaceful population to extreme fury and threw disorder into the ranks of the local police by rendering impossible the task which devolved upon it of preventing and promptly quelling any incipient disturbance.

(Foreign Relations, 1906, p. 1297.)

Chargé Eddy to the Secretary of State.

AMERICAN EMBASSY,
St. Petersburg, September 15, 1906.

SIR: Referring to the department's cabled instructions of July 31, 1906, whereby the embassy is directed to furnish, from time to time, information concerning the Jews throughout Russia, I have now the honor to give you the following facts, which I have gathered from Government documents, from conversations with men who are in a position to know the situation, and from the Russian law.

The number of Jews throughout the entire world is variously estimated at from 9,000,000 to 11,000,000, of which number 5,140,800 live in the Russian Empire. Of those who live in the Empire, 2,797,880 reside in European Russia, or about 3.2 per cent of the entire population; in Poland there are 815,443; in the Caucasus, 22,732; in Siberia, 11,941.

To understand the position of the Jew in modern Russia it is first necessary to understand something of the laws dealing with and directed against him.

The Russian Government first began to take an interest in the Jews in the year 1772, when, for the first time, the latter were officially received as citizens of the Empire. In examining the contemporary Russian laws, it is seen that they divide the Jews into four categories:

(1) The "Caraime" Jews: These Jews have the same rights as other Russian subjects.

(2) The Polish Jews: These, according to the law of 1862, enjoy the rights of other subjects, but only within the limits of Poland itself. However, the law promulgated in 1891 forbids them to acquire and to cultivate as their property the land of the peasants.

(3) Foreign Jews: Those who are not Russian subjects are not permitted to enter the Russian Empire and there become naturalized. The right of temporary sojourn in Russia can only be granted by the minister of the interior or by the Russian embassies, legations, and consulates. (Law of Mar. 14, 1891.) It is hardly necessary to add that Russian representatives abroad never actually give permission to foreign Jews to enter the Empire, even for a short time, and that such permission must be obtained through the ministry of the interior. It is true that the Jews living in Central Asia have the right to enter Russia proper, to there transact their business, and even to become Russian subjects, provided they register themselves immediately in one of the merchant guilds. But the right of citizenship, even then, can only be obtained by the direct permission of the minister of the interior or of the Governor General of Turkestan.

(4) The Rabbinist Jews: The right of domicile is granted only to the Jews in Poland and in the governments of Bessarabia, Vilna, Kieff (with the exception of certain parts of the city of Kieff), Taurida (with the exception of the city of Yalta), Kherson (with the exception of the town of Nikolaieff), Moghileff, Volhynia, Vitebsk, Grodno, Poltava, Ekaterinoslaff, Podolia, Tchernigoff, Minsk, and Kovno. No Jews have the right to live in Finland save those who have been domiciled there from time immemorial. In the Provinces of Kouban and of Terek those only have the right of domicile who have obtained a degree of arts or sciences. (Law of 1892.) In Siberia, according to the explanation of the law by the Senate, no Jews may make their home except those who have lived there for several generations. The question of the status of the Jews in Siberia has, however, not yet been fully defined. In Kurland the right of domicile is accorded only to those Jews (and their descendants) who have lived there before the revision of the law in 1835, and in the Caucasus only to those who were there before the subjection of that country.

Certain classes of Jews have the right to establish themselves anywhere throughout the Empire, some temporarily and others as permanent residents. Those having the right of permanent domicile are composed of:

(1) Merchants of the first guild who, according to the law of 1859, are allowed to establish themselves in the cities, where they are registered in a guild on the condition that they have been formerly merchants of the first guild within the Jewish pale.

(2) Those who have the degree of doctor of medicine, doctor of laws, or are candidates for such degrees at the universities, and also all Jewish doctors as well as those who have graduated from the Polytechnical Institute of St. Petersburg, or from the Russian universities. (Law of 1879.)

(3) Jews who ended their military service before 1874, the year when universal conscription was put in practice throughout Russia. These have the right to settle with their families on Government lands.

(4) Artisans of the highest class. (Law of 1867.) But this latter law, though good in theory, amounts to very little in practice. The guilds are purely Christian institutions, and to produce a certificate of membership of the first guild within the pale is

not an easy matter. Moreover, this certificate produced, the Jew must pass an examination and pay a large fee. If he succeeds up to this point and becomes a member of the guild in his new place of residence, he is forced to submit to annoyances by the authorities, and especially by the police. The regulations are very hard on him; he can not trade in any town but the town in which he has settled; he can not change his trade; if he meets with an accident and is unable to work at his calling, he must return with the pale.

The classes of Jews who enjoy the right to travel about and to reside temporarily in different parts of the Empire are:

(1) Merchants of the first guild registered in the cities within the pale have the rights to sojourn in other governments for a period not to exceed six months each year; and merchants of the second guild have the same right for a period of three months each year. (Law of 1879.)

(2) Those who have graduated from schools and gymnasia and wish to enter universities and other higher schools have the right of domicile in all cities where there are universities and schools of the higher order.

A significant fact is that the right of universal domicile and temporary sojourn is a personal right and does not apply to the wife or children of the possessor.

There are two forms of public service theoretically open to the Jews: (a) Service by appointment and (b) service by election.

(a) Such Jews are nominally admitted to the public service who have received a higher education and have obtained scientific degrees. But none the less many departments do not admit their participation, as, for example, the ministry of justice.

(b) According to the law of 1870, the number of Jews in the village councils and in the councils of municipalities must not exceed one-third of the number of Christian members of the said council. Mayors of villages must be Christians. According to the laws of 1890 and 1892, Jews can not take part in assemblies for elections beyond the Jewish pale, and the same law forbids them to hold office under the municipalities outside the pale. Furthermore, in courts of justice, whatever the religion of the plaintiff or defendant, there must be more Christians than Jews in the jury and the foreman of the jury must be a Christian.

Professional careers are not very restricted so far as the Russian Jews are concerned. Most occupations of this nature are as free to them as to the Gentile. But to be a practicing lawyer the Government demands of the Jew that he shall, after passing the necessary examinations, obtain the permission of the minister of justice. Furthermore, the number of the Jews practicing law is limited to 10 per cent of the entire number of lawyers throughout the Empire, so that it is rather difficult for a Jew to obtain admission to this calling. However, owing largely to the efforts of the lawyers and to the influence of more modern ideas, the above restrictions are now being taken in the broadest possible sense and the admission of Jews to the Russian bar is daily becoming more easy.

The profession of teaching is forbidden to Jews, whether in Government institutions of learning or in private schools.

According to the census of 1892, more than 35 per cent of the Israelite population are earning a living in cities as (*a*) artisans and as (*b*) workmen.

(*a*) In 1897 there were registered in 1,200 districts a total of 500,986 Jewish artisans, who composed in themselves 13.2 per cent of the population of these 1,200 districts.

	Master workmen.	Skilled workers.	Apprentices.	Total.
Men	229,485	115,784	79,169	424,438
Women	29,911	24,744	21,893	76,548
Total	259,396	140,528	101,062	500,986

Other statistics show that, within the Jewish pale, there are 15 Jewish artisans for every Christian artisan. If we suppose that two members of each family are artisans and that the average family is composed of five members, we find that 1,400,000 live by artisan labor, or nearly 30 per cent of the entire Jewish population within the pale. The statistics of the town of Mogileff show that the average salary of an independent Jewish artisan amounts to as much as 500 rubles ($250) yearly; that of an artisan who is not independent is about 240 rubles ($120) a year. The working day for the former is from 11 to 13 hours, for the latter anywhere from 15 to 18 hours. Such a number of

working hours seems almost impossible, and yet it is the life lived by most of the poorer Russian Jews. The fact that they are none the less a fairly healthy and long-lived class speaks highly for the stamina of the race.

The greater part of the Jewish working class (as distinguished from the artisans) is employed in domestic service. Of this class there are about 170,000 men and women. There are also about 100,000 day laborers, of whom 32,000 are engaged in quarrying and as teamsters, 30,000 as bearers of burdens and porters, 20,000 as woodcutters, sawyers, terrace-makers, pavers of streets, etc., and 13,000 are employed on farms or live in small towns and seek their employment in the surrounding fields. The number of Jews employed in factories within the pale, including Poland, approaches 50,000.

The following table gives an idea of the employment of Jews within the pale, with the exception of Poland. The percentages given indicate the proportion of Jews among the entire number of workers:

Products.	Governments of Northwest.	Southwest.	South.
	Per cent.	*Per cent.*	*Per cent.*
Glove makers	100.0	100.0	.....
Matches	95.2	12.0	.....
Soap	84.7	81.1	63.6
Sweetmeats	62.4	100.0	.....
Distilleries	25.4	4.2	21.4
Foundries	14.9	15.2	.2
Mechanics	4.2	.....	.....
Bricklayers	49.4	8.8	3.0

It is especially noteworthy that the number of Jews engaged in planting tobacco and in the cigar and cigarette manufactories is everywhere greater than the number of Christians so employed. For example, in 1899 the total number employed in the tobacco plantations amounted to 3,720, of which number 3,431 were Jews, or 92.3 per cent. The number of women and children employed is in general greater than the number of men. For example, in 1899 in the government of Grodno the women and children composed 74 per cent of the total, and in the government of Ekaterinoslaff the percentage was 91.

In regard to agriculture in its more general form the Jews are discriminated against. The law of 1804 allowed them to cultivate and own the unoccupied lands belonging to the Crown, and the enjoyment of these rights were on very advantageous conditions.

After 1850 the Government began to organize agrarian colonies on a large scale; but the lands which were available were not very fertile and the sums of money appropriated for the purpose were insufficient; now, these agrarian colonies have a very hard time of it. Many of them have ceased to exist, for the conditions imposed for the right to cultivate the Crown lands are so severe for the Jews that they no longer dare to enter into any agreement. The poverty among this class is unbelievable. Their food consists largely of cabbage soup and a sort of broth made out of grain. Meat is an almost unheard-of luxury. One wooden spoon has to suffice for an entire family, as the cost of one for each member of the family can not be borne; yet a wooden spoon can be bought for 3 kopecks (1½ cents). While traveling through the country on a sleigh on a shooting expedition, I once threw away a piece of newspaper which had been used as wrapping for a parcel. This happened in a village, and those inhabitants who were standing about almost fought one another for it. On inquiry I found they wished the piece of old newspaper to make cigarettes of and "to wrap things in." There is a lying-in hospital supported by charity in St. Petersburg itself, where it is a common occurrence for women to wrap up their newly born children in newspapers when leaving the hospital for their homes simply because they could not afford to buy even a piece of flannel cloth suitable for the purpose. My own experiences have all been within 100 miles of St. Petersburg, but I have seen enough poverty even in this prosperous section of the country to give a good idea of what the condition must be of the poorer Jewish agricultural people within the pale.

In the Jewish agricultural colonies above mentioned there are within the pale 13,000 families, making in all about 76,000 persons, who are in possession of 98,000 arpents of land. Of this land only 17,000 arpents are the personal property of the Jews. Seventy-eight thousand arpents compose the land ceded by the state, and 3,000 arpents are rented.

Jews have the free right to acquire property in all the towns and villages within the pale with the exception of certain parts of the cities of Kieff, Yalta, and Sebastopol.

The law of 1903 forbids Jews to acquire real estate outside of the towns and villages beyond the pale.

The conditions for holding real properly and for the renting of lands are more favorable to the Jews in Poland than anywhere else. The law of 1862 allowed them to buy and to rent land, except (law of 1891) the land belonging to the peasants. The following table shows the proportion of land belonging to the Jews within the pale, and within the Kingdom of Poland:

	The 15 governments of the pale.		The 10 governments of Poland.		Outside of the pale.[1]	Total.
	Number of arpents.[2]	Percentage of total.	Number of arpents.	Percentage of total.	Number of arpents.	
Real property owned.....	411,108	0.58	240,273	2.13	718,160	1,369,541
Rented lands.....	521,649	.74	37,765	.33	53,807	613,221
Total.....	932,757	1.32	278,038	2.46	771,967	1,982,762

[1] Outside the pale: European Russia, 745,646; Caucasus, 5,072; Siberia, 18,753; Central Asia, 2,496; total, 771,967.

[2] An arpent is equivalent to about 550 square yards.

The Russian Government first took up the question of Jewish public education at the beginning of the ninteeenth century, when the Jewish question first claimed their attention. The law of 1804 stated that "all children of Jews are to be received and educated, without any discrimination whatever between them and the children of Christians, in the Russian schools, gymnasia, and universities." This law also stated that "no one shall be turned from his or her religion under any pretext whatsoever;" and, further, "the degrees which shall be conferred upon Jews as a recompense for their personal efforts shall be fully recognized."

None the less the Jews did not place their children in Russian institutions of learning, where everything would have been strange to them—customs, language, and even the studies themselves. During the intervening 40 years the Jews, with the permission of the Government, founded only three private schools—in 1822 at Ouname, in 1826 at Odessa, in 1830 at Vilna. In 1835, according to the Government statistics, there were only 11 Jews in all the Russian universities, and in 1840 only 72 Jews in all the Russian Government schools. But at the present time there are an appreciable number of Israelite students in the universities. In the St. Petersburg University there are 140, or 3.64 per cent of the entire number; at Kharkoff 395, at Kieff 363, at Novo-Rossik 255, at Tomsk 140, at Warsaw 170, at Kazan 64. The total proportion in all Russian universities is about 10.6 per cent Christians for every Jew. As the number of Christians in Russia is about 14 times the number of Jews, it will be seen that the proportion of Jews desirous of obtaining an education is greater than that of the Christians. It may be added that the Israelite students in the universities, though somewhat addicted to socialistic and anarchistic doctrines, are, for the most part, very intelligent, and take a fairly high rank in the examinations. They specialize largely in the learned professions, medicine and law having the greatest number of followers.

In 1844 the Emperor Nicholas I promulgated a law according to which it was decided to establish special schools for Jewish children in all the towns and villages within the pale. These schools were to be of two classes, a higher and a lower. For school-teachers there were provided certain training schools; but these institutions did not gain very much sympathy from the Jews, and therefore measures were taken to cause the Jews to enter their children in them. The authorities simply demanded the parents to cause their children to attend; but it was only after Jews had been appointed as inspectors of these schools that the new movement began to obtain Jewish approval; but in 1873, for some unknown reason, these schools were all closed, and the result was that the number of Jews in the Government schools and universities was greatly increased. In 1887 the then minister of public instruction, M. Delianoff, decided to limit the number of Jewish students. This measure was carried into effect, and the number of Jews was reduced to a certain percentage of the total number of students in the different localities. For the institutions within the pale this was fixed at 30 per cent; outside the pale, 5 per cent; and at St. Petersburg and Moscow, 3 per cent. Moreover, there were a certain number of institutions

where Jews were not received at all. After this the number of Jewish students began to diminish as follows:

	Number of Jews in 1881.	Number of Jews in 1894.
	Per cent.	*Per cent.*
Preparatory schools	12	6.2
High schools	8	5.2
Total	20	11.4

In the universities the same results followed; in 1886 the Jews composed 12.7 per cent and in 1894, 4.4 per cent of the entire student body. In the higher technical schools a limit was also placed; the St. Petersburg Institute of Technology received 3 per cent, the St. Petersburg School of Mines 5 per cent. Some of the higher institutions were entirely closed to the Jews, such as the St. Petersburg School of Electrical Engineering, the Military School of Medicine, the St. Petersburg School of Civil Engineers, etc.

After placing these limits on the Government schools in general the minister of education began the opening of the present plan of Jewish public education, which has resulted in the following system:

In the cities and towns within the pale there are 800 Jewish schools with 600,000 pupils, but this number of schools is really insufficient, as more than two-thirds of the villages remain without schools. The State schools compose altogether one-fifth of the entire number of Jewish schools, the public schools one-fifth, and the private schools three-fifths. Beyond this there are 25,000 Jewish schools which are not under State control, with a total of 300,000 scholars. Unfortunately there is a dearth of capable instructors, as the two institutions for the training of teachers are entirely inadequate.

The special taxes paid by the Jews in Russia, apart from the taxes which they pay in common with all other subjects of the Empire, are divided into two classes which are known as general taxes and special taxes. The former are taxes on all animals killed for food and are known as the "korobochny sbor." Each animal killed is taxed; on beef this amounts to about 1 cent per pound. Each chicken killed after the Jewish custom is also taxed. Then there is the special payment to the Government for the right to sell meat which has been killed and prepared in accordance with the Hebrew customs. This tax falls very heavily upon cretain classes of the Jews. By those who do not observe the strict teachings of the Mosaic creed it is not felt at all, while those who live up to their religion with all its usages are very much affected.

The special taxes comprise many small ways of collecting money from the Jews, e. g., the tax paid by the Jews for the right to rent houses, shops, etc., as well as the tax on factories owned by them. The collection of these taxes is farmed out by the Government of each Province.

Another special tax is what is known as the "candle tax." (Law of Jan. 17, 1848.) By this law there is a special payment to be made for every candle which is burned by the Jewish families on Friday evenings. The revenue from this is divided between the public instruction of the Jews and the administration. At the present day, however, this candle tax exists only in name. It has been found more easy to take a fixed sum each year from the "korobochny sbor" for both objects named above (public instruction and the administration).

According to the law of 1862 the Jews have the right to open publishing houses for the printing exclusively of Jewish books. Permission for this is obtained only through the minister of the interior. Each printing press is taxed according to its size. Small presses pay 20 rubles ($10) a year, while large rotary presses pay up to 240 rubles ($120) yearly.

In 1874, when universal conscription was introduced in Russia, no particular regulations were laid down in regard to military service for the Jews. But two years later many restrictions were instituted, chief among which were the following:

(1) Jews can not serve in the regiments of the guards, in the frontier guards, in the gendarmerie, or in the navy.

(2) No Jew can attain the rank of officer in the army or navy. No matter what his capacity may be, he can not be admitted to the examinations for a commission.

(3) The families of Jews who have fled the country to avoid military service must pay a fine of 300 rubles.

These regulations, however, have failed to attain their end. For each year the number of Jews who do not materialize for military service increases in a startling manner. It is almost impossible to obtain accurate statistics on which to base a statement as to how many young men should yearly be called upon to perform military service. During the past 20 years more than 1,000,000 Jews have emigrated from Russia to America alone, of which number two-thirds have been men. But if we take the census of 1897 as a basis, we find that the Jewish population of Russia was 4.13 per cent of the whole, and as the number of young males of 21 years of age is nearly always the same among all peoples, we are safe in saying that the correlation between the male Jews of 21 and the male Christians of 21 is also 4.13. However, the following statement gives an entirely different result:

	Christians and Jews.	There should have been of Jews (at 4.13 per cent)—	Number of Jews taken.	Difference between sec. 2 and sec. 3.
There were called upon to serve	1,053,572	43,512	58,635	15,123
Number taken for service	320,832	13,250	19,911	6,661

According to official reports there were taken Jews less	1,970
And nevertheless there were actually taken	4,691

The Russian point of view is, briefly, about as follows:

A Jew comes to a Russian village in which the peasants have been living in peace and quietness. The peasant is by nature a good-natured, stupid, hard-working individual, who has never thought it possible for himself to gain more than enough to keep himself and his family in food, clothes, and fuel, with a more or less solid roof to cover them. In a short time the Jew, by his keener intelligence and greater energy, begins to get money by perfectly lawful buying and selling. Then the Jew lends money, taking as security the land or house or personal property of the peasant. Then comes the foreclosures and the consequent enmity, which leads in many cases to violence. The Jew is unwilling to relinquish what he has got hold of by legal means. The peasant considers himself wronged and tries to even up things in his own way. The Jewish point of view is well given in a statement of their case which was made as a memorial from 32 Jewish communities in Russia, presented to the committee of ministers on March 9, 1905. A translation of this memorial reads as follows:

"The measures taken in the last quarter of a century dealing with Russian Jews have directly tended to drive them to beggary and to leave them without means of subsistence, the benefits of education, and human dignity. A continuous system of persecution was artfully devised and regularly put into force. When the common people massacred the threatened Jews in the towns the bureaucracy judged it proper to take away the right to live in the country districts and to acquire any property there. By law and by means of administrative measures not only was further settlement in the villages prohibited, but at the same time crowds of people, settled in the 50-verst zone and Provinces outside of the pale, were driven into the towns, and the very limits of the pale were narrowed. In the government outside of the pale certain privileged localities were created where only persons who had completed their studies were allowed to come (Moscow, the government of Moscow, the military Provinces etc.). Finally, one part of the Empire was closed to all Jews but convicted criminals.

In consequence of these measures and the forced migration of a mass of people, the population of the pale increased. In spite of a considerable emigration beyond the ocean and to European countries, there are actually 4,200,000 Jews inclosed within the walls of towns, and only 700,000 within the villages of this great district.

Measures were taken to prevent the Jews from entering middle and high schools; to counteract their wish to learn, percentage restrictions were imposed. Jews were admitted to the middle schools with the greatest difficulty; thousands were not admitted. Only units entered the high schools. These few fortunate ones had not the right to enter the public service; they could only become lawyers with the permission of the minister of justice, and for 15 years this permission was never accorded.

Without exaggeration it might be said that the whole machine of state aimed at making it impossible for Jews to exist in Russia. Every department had something to say on the Jewish question. It seems improbable, but it is certain, that not long ago every measure was the more popular the more it was intended to persecute and destroy the people who were considered the enemies of God and man. It was in

short, even a short time back, found necessary to forbid Jews to acquire real estate in the interior of Russia, in spite of the fact that only in three governments is property held by Jews more than 1 per cent of the entire amount. The bureaucracy has persecuted the Jews by all means and in all their aspirations. It has gone so far that, even in creating savings banks, Jewish founders were not allowed to elect directors from among their coreligionists, and Jew workmen, united for mutual help, were obliged to intrust their affairs to casual and disinterested persons.

A large percentage of the Jews settled in the towns of the pale (in some 60 per cent, and calculated on the payment of municipal rates, 90 per cent), have no right to take part in municipal administration, and their needs are provided for by persons who are not interested in the town, and are ignorant of the needs of the local population.

It would be difficult to summarize all those legal and administrative restrictions which hamper the Russian Jew from his birth to his death. Wherever he lives—within or without the pale—he is not guaranteed either from material ruin or moral outrage at the caprice of the authorities. He is at the mercy of the police.

The aim of the administration has been achieved even in a greater degree than those responsible for this system would wish. Among the Jews of the pale, who for the most part consist of a half-starving crowd, a fifth are dependent on charity, and in the large towns, such as Wilna and Berdicheff, as much as a fourth and even a third. Such a percentage of paupers can not be equaled in any country in Europe.

Living side by side with this mass of paupers, is a proletariat of workmen and artisans. The only condition—writes an inquirer into the conditions of the Jewish working class—which makes it impossible for a workman to toil otherwise than as a slave, is the right to move from one place to another, and Jewish workmen are in fact subjected to severe restrictions or are without this right. If they do not wish to die of hunger, or to go begging, they must submit to every condition. On the other hand, Jewish capitalists are subjected to many restrictions, and it is difficult for them to be in touch with the extensive markets and purchasers outside the pale.

The disabilities of the Jews have also influenced the economical prosperity of the Christian population; the removal of Jews from participation in economic life hampers trade, and also imposes restrictions on the Christians in the domain of credit and the free disposal of property. An eloquent proof of this is the attempt of many Christian landowners to evade these restrictions by fictitious leases or deeds of sale.

Restrictive laws demoralize the authorities who carry them out. The Government has latterly recognized that everlasting deportations of Jews are only a temptation to the police authorities, and have a demoralizing effect on a nation. Under such influences the authorities look upon the Jews as a people outside of the law, for whom there are no courts and no protection. It leads to innocent people being persecuted, ruined, and even murdered, as is shown by the Kishineff, Gomel, and Moghileff massacres.

The only way to improve the sad lot of the Jewish population in Russia is to give them the same rights as the rest of the nation, as has been done in all European countries.

Beyond the right of taking part on an equal footing with other citizens in political and social life, justice demands that they should have the same elementary rights of citizenship—freedom of action, freedom of profession, the rights to acquire property, the right to be educated. Freedom of movement and freedom of occupation are closely connected with, and are indispensable to the well-ordered state. These rights give a man the possibility to develop and apply his capacity and strength to gain the means of existence in those occupations which he finds congenial and in the place which is congenial. These are the elementary rights of every human community, and every obstacle to freedom of movement, of occupation, and the acquisition of property, are felt as being a cruel persecution and an encroachment on the rights of humanity. The struggle of life is already hard enough without creating further obstacles in the way of earning a living, whether physical or intellectual. On the contrary, initiative and independence must be encouraged. For this purpose all races and creeds must be allowed free development.

"When the object is to better the lot of a people, then small means have less than small results; they have no effect at all." This is a truism which no one denies. A gradual change, which only prolongs the evil, has already been condemned by the Russian statesman, B. N. Chicherin, with special reference to the Jewish question. "Restriction of rights," he declares, "is a kind of punishment. If I am convinced that the man is being punished wrongfully, why is it necessary to gradually change his punishment?"

Such a gradual change is not only unjust but it is ineffectual. The Jewish people in all its ills feel profoundly, not only physical and material wants, but also the moral outrage of their degraded position. Half measures are no reparation for an injury. A people of many millions, aroused to consciousness of its right to existence, can not

indefinitely remain a race of suspects. Most of the legislative and administrative enactments concerning the Jews of the last 25 years have been based on the danger that they are supposed to represent to the prosperity and greatness of the country. This idea has been spread by certain sections of the press to draw attention from the real evils of Russia; it was proclaimed by the bureaucracy because the "pernicious aspirations and activity of the Jews seemed to be a convenient explanation of all our misfortunes." "Russia for the Russians." This formula justified and explained everything, excluding from the number of Russians the following of foreign creeds, although they had been settled in the country for centuries. But is the unity and stability of a great empire really guaranteed by narrowing the foundations? Not only in their present trials, but when they have passed, the thoughts of the Russian people should be directed to reconstituting their internal strength. Union is only possible by unity of interests and sentiment. Restrictive laws condemning the Jews to poverty and demoralization paralyze all their efforts toward normal activity, having driven hundreds of thousands of energetic, laborious persons beyond the seas, and have sapped at the root of the intellectual strength of a people of many millions, to the detriment of the whole country.

All Jews in Russia are at present animated by one thought, that the cruel force of endless limitations and restrictions is sapping the very foundation of their existence; that such an existence is no longer tolerable. Wearied by the past, seriously anxious for the future, the Jews are awaiting for the complete restoration of their strength and a final abrogation of all exclusive laws, in order that, free and equal with other citizens of a great country, they may labor for its welfare and prosperity.

With this feeling on both sides it seems hopeless to try to arrange matters satisfactorily. The religion of the member of the Orthodox Greek Church teaches him that the property of the Jew is not to be looked upon as is a fellow Christian, and the severe tenets of the Christianity of three centuries ago still hold the people in this Empire, from the highest to the lowest. It is true that the faith of the people in the governing class has recently been practically broken, but their faith in their church has practically remained unchanged, and in considering the Jewish problem in Russia it must not be forgotten that the Russian point of view is, at bottom, a religious feeling, while the point of view of the Jew is purely ethical.

The Jews are not taking the ill treatment and oppression with peace and resignation. This is a point which should be well understood in considering their position. During the past 20 years their opposition, while unorganized and misdirected, has none the less been so strong and unquenchable that neither prison nor bodily suffering, nor the whips of the Cossacks, nor transportation to the farthest limits of Siberia, nor even the death penalty itself, has been able to keep them quiet.

It is said by many writers on this subject (Christians as well as Jews) that the Russian Government, unable to cope with the question themselves, have been stirring up the minds of the uneducated masses against the Jews to an extent which has resulted in the unfortunate massacres at Kishineff and elsewhere. It is not asserted by reasonable men that the St. Petersburg Government had a hand in these massacres. What is meant is that the Government is trying to make it harder and harder for a Jew to remain in Russia, and are prejudicing the people against the Jews to that end.

When Boulyguin gave it out that the Jews were not to have representatives in the Douma, the entire Jewish population came out with so strong a protest that the Government saw they must drop the matter for the time being at least. This shows conclusively that the united voice of the Jews in Russia carries weight enough to change the plans of the Government in some respects— a state of affairs which would have been considered absurd 20 or even 10 years ago. So it is possible to believe that the condition of the Jewish population, bad as it is, is also no worse than it has been, and it seems just to hope that the near future will bring the same betterment of conditions to them as it bids fair to bring to the Russian people generally.

I have, etc.,

SPENCER EDDY.

(Foreign Relations, 1906, p. 1300.)

Chargé Eddy to the Secretary of State.

AMERICAN EMBASSY,
St. Petersburg, September 19, 1906.

SIR: In confirming my cablegram to the department of the 11th instant as follows:

"Consul at Warsaw telegraphs that a disturbance exactly similar to the one at Bialystok is taking place at Siedletz. Details lacking as yet."

I have the honor to inclose, for the further information of the department, a copy of a letter, dated the 14th instant, from the vice consul in charge at Warsaw, in which

he gives details regarding the disturbances at Siedletz. In this connection I also inclose translation of a telegram, published in the local papers, dated Siedletz, September 12, giving the official account of the occurrences.

I have, etc., SPENCER EDDY.

(Foreign Relations, 1906, p. 1311.)

[Inclosure 1.]

Vice Consul Fuchs to Chargé Eddy.

AMERICAN CONSULAR SERVICE,
Warsaw, September 14, 1906.

SIR: I have the honor to confirm my wire of the 10th instant, reading: "Siedletz exact repetition of Bialystok."

In supplement to this and to the general report of the "pogrom," as given by the press, I wish to add the following particulars:

There can not be the least doubt but that the "pogrom" was premeditated and prepared by the troops, soldiers having been seen on the eve of the massacre to enter lodgings and instruct the Christian population to hang out devotional objects as preservatives against what was going to happen. There was no khooligans on the premises, it appears, to provoke or to take part in the massacre.

I am informed from reliable quarters that the number of Jews killed amounts to 137 (corpses identified), the number of wounded about thrice as many. The Jewish shops and houses along the principal streets and the central market pillaged.

Characteristic feature is that in opposition to the wholesale massacre of the Jews and devastation of their homes was killed one Christian civilian and one soldier, another soldier being wounded. As to property, one Christian shop and one hotel plundered.

On the other hand, however, it can not be denied that attempts upon the lives of the gendarmes, higher police officials, and military men had lately been numerous in Siedletz.

I have, etc., WITOLD FUCHS, *Vice Consul.*

(Foreign Relations, 1906, p. 1311.)

[Inclosure 2.—Press telegram.—Translation.]

[Official.]

DETAILS OF THE DISORDERS AT SIEDLETZ.

SEIDLETZ, *August 30, 1906.*

In the afternoon of August 28 (Sept. 10) an officer was shot from the balcony of a house in Igorodnaia Street. Seven young men were arrested. The night of the 29th was quiet.

On the 29th (Sept. 11), at daybreak, another officer was fired at in Slodolnaia Street. The troops opened fire against both houses. During the night of the 30th (Sept. 12) two shots were fired from the garden in front of the treasury. It is evident the sentinels were aimed at and they replied by firing eight shots.

Up to the present six Jews and one Jewess have been registered as wounded at the Christian hospital. One Catholic was skilled and another died of fright. At the Hebrew hospital there are 17 Jews killed, 12 severely wounded, and 60 slightly wounded; 21 bodies have been buried at the Hebrew cemetery.

Fifty-four persons, of whom 43 had used arms, were arrested. A dragoon accidentally killed himself. Twelve places were set on fire, but all of them were localized. Seven shots were fired from artillery, making breaches in two houses on Penknaia Street. The firing was concentrated on the houses in the center of the town.

The furniture of several apartments was damaged. The merchandise in several shops was injured. Large quantities of goods were stolen. To-day the town is quiet. A military committee has arrived from Warsaw. The Jews continue to remove from the towns to neighboring villages.

The reports published in Polish newspapers are intentionally false or exaggerated, in order to produce sensation. There have not been disorders in other parts of this government.

(Foreign Relations, 1906, p. 1312.)

Ambassador Meyer to the Secretary of State.

AMERICAN EMBASSY,
St. Petersburg, September 22, 1906.

SIR: I have the honor to report that Baron Gunzburg, representing the Siedletz Jews, called upon M. Stolypin to urge against the trial of the prisoners by court-martial.

The minister expressed his profound regrets for the excesses that had taken place and his determination to thoroughly investigate the facts and publicly distribute the responsibility, no matter upon whom it may fall. He also complied with the request of Baron Gunsburg notifying the governor general of Warsaw of the desirability of having recourse to the ordinary tribunals.

The premier, in conclusion, expressed the hope that the Siedletz riots would constitute the very last ordeal for the Jews, and touching the question of Jewish disabilities, he stated he would shortly introduce a bill extending Jewish rights and leaving it to the Douma to bestow absolute equality.

I have, etc., G. v. L. MEYER.

(Foreign Relations, 1906, p. 1312.)

Ambassador Meyer to the Secretary of State.

AMERICAN EMBASSY,
St. Petersburg, November 1, 1906.

SIR: I beg leave to report that at the sitting of the council of state last Saturday the question of according ordinary political rights to the Jews came up for discussion. Some divergency of opinion was manifested. It was finally decided by a vote of 28 to 16 not to deal separately with the Jewish problem, but to regard it as forming part of the general question of granting equal political rights to all nationalities in the Russian Empire.

I have, etc., G. v. L. MEYER.

(Foreign Relations, 1906, p. 1313.)

Ambassador Meyer to the Secretary of State.

AMERICAN EMBASSY,
St. Petersburg, December 1, 1906.

SIR: I beg leave to report that a semiofficial note, published this week, on the Jewish question states that the questions of permission for Jews to acquire land in all parts of Russia and the removal of the limits for Jewish settlement must be left to the Douma. While, however, such provisions would be at present premature, the three following measures will be carried out before the summoning of the Douma: The removal of the restrictive police regulations in 25 Governments lying within the Jewish pale; the promulgation of similar arrangements for Jews outside of the pale; and the removal of the restrictions under which Jews labor regarding trade.

I have, etc., G. v. L. MEYER.

(Foreign Relations, 1906, p. 1313.)

Ambassador Meyer to the Secretary of State.

AMERICAN EMBASSY,
St. Petersburg, December 31, 1906.

SIR: I beg leave to report that, in a conversation with Baron Gunzburg, I learned today that it was definitely known that the Emperor had decided not to affix his signature to the bill presented by Stolypin granting certain privileges to the Jews, referred to in my dispatch of December 1, No. 705, namely:

The removal of the restrictive police regulations in 25 governments lying within Jewish pale; the promulgation of similar arrangements for Jews outside the pale; and the removal of the restrictions under which the Jews labor regarding trade.

It is understood that the Tsar stated that as the Duma was to meet within a few weeks it was better and wiser that no new legislation should be promulgated.

Ever since this bill has been laid before the Emperor by the prime minister the reactionists have been active in their efforts to prevent the same becoming a law. It is felt that the attempt on Dubassoff's life and the assassination of Count Ignatieff have assisted the opponents to the bill in affecting the Emperor's decision.

It is believed by many that the Emperor is not necessarily opposed to this legislation, but on a matter which affects so many people throughout the Empire he prefers action should be taken by the Duma.

I have, etc., G. v. L. MEYER.

(Foreign Relations, 1906, p. 1313.)

APPENDIX II.

THE PASSPORT QUESTION.

[Reprint from the American Jewish Year Book 5672.]

In April, 1832, during the presidency of Andrew Jackson, James Buchanan was sent as United States Minister to Russia, charged with the duty of negotiating a treaty of commerce and navigation with that country. His life, by George Ticknor Curtis, and his recently edited correspondence, by John Bassett Moore, show that, with the exception of the distinguished Count Nesselrode, the Russian ministers were averse to the negotiation of such a treaty. It was due mainly to the favorable attitude of Nesselrode and the cautious and enlightened diplomacy displayed by Buchanan that, on December 18, 1832, the well-known treaty was signed by Buchanan and Nesselrode. Immediately transmitted to the Secretary of State, Edward Livingston, who had succeeded Martin Van Buren in that office, it was on February 22, 1833, forwarded by President Jackson to the Senate and on the same day referred to the Committee on Foreign Relations. Five days later it was reported back to the Senate by John Forsyth, chairman of the Committee on Foreign Relations (later, from 1834 to 1841, Secretary of State), without amendment, and was agreed to by a unanimous vote, 40 Senators voting in favor of its ratification. It was ratified by President Jackson on April 8, 1833; ratifications were exchanged in Washington on May 11, 1833, and on the same day it was proclaimed, and has ever since constituted part of the supreme law of the land, in accordance with the Constitution of the United States.

It is safe to say that if those sturdy Americans, Andrew Jackson and James Buchanan, had even remotely conceived a tithe of the humiliation and indignity which would be inflicted upon the honor of the United States by the flagrant violation of the specific terms of the first article of this treaty by the Russian Government for more than 40 years, in the very teeth of a continuing remonstrance on the part of the United States, they would never have participated in the creation of such a treaty.

Until after 1865, no question arose between the United States and Russia as to the interpretation of the terms of the first article of the treaty; but by that time Russia's comparatively favorable attitude toward her Jewish subjects was altered, and with the change came the reading into the treaty of 1832 of ideas that not only were not in the minds of Count Nesselrode and James Buchanan when the treaty was negotiated, but which, under our Constitution and laws could not have been entertained for a moment by any President, Secretary of State, or diplomatic officer of the United States.

Sporadic cases arising during the next 15 years gave our ministers to Russia and our Secretaries of State the opportunity to protest with indignation at the new and unwarranted interpretation put by Russia upon the terms of the treaty. But it was not until about 1880 that the question assumed a critical aspect. Russia's persistent and determined violation of the treaty from that time impelled James G. Blaine, while Secretary of State, to write his masterly dispatch of July 29, 1881, to which the Russian Government has never been able to make any effective reply. Secretary Blaine's presentation of the subject was so profound and comprehensive that his successors in office found but one point not touched upon, namely, the inquisition into the religious belief of American citizens bearing the passport of the United States, practiced by the representatives of the Russan Government on American soil. This point was energetically pressed during the administrations of President Cleveland by Secretaries Bayard and Olney and by our Minister to Russia, Cliftion R. Breckinridge. The Russian Government was informed in distinct terms that her practice of subjecting to a religious inquisition all American citizens bearing American passports and desiring to have those passports visèed, was one not to be tolerated by the genius of our institutions; that "the continuance in such a course, after our views had been clearly but considerately made known, may trench upon the just limits of consideration," and might lead to the withdrawal of the exequaturs of such consuls as continued this practice.

The unanswerable presentation of the just and proper meaning of the treaty of 1832 made by Mr. Blaine, and the additional point made under the administration of President Cleveland in 1892 to 1896, were adhered to by all succeeding Secretaries of State without sign of deviation until 1905.

In the meantime, between 1879 and 1909, one or other branch of the Congress of the United States, in resolutions and in reports of Committees, notably the report of the Committee on Foreign Affairs of the House of Representatives presented on April 6, 1892, clearly indicated that the protests of the Department of State voiced the sentiments entertained by the adherents of all shades of public opinion in the United States.

Following hard upon the death of Secretary of State John Hay, and the accession to office of Secretary of State Elihu Root, there ensued an apparent change of attitude toward this question by the Department of State, which was guided in its foreign negotiations by a Russophile policy—a condition which has not yet changed. In consequence, the passport question began to receive scant consideration, contrary to our national traditions, and in marked contrast to the vigorous attitude maintained by the Department of State during the preceding 45 years through all changes of administration, irrespective of party.

In pursuit of this determination to retire from the position maintained by his predecessors for nearly half a century, Mr. Secretary Root, on May 28, 1907, issued the following circulars:

CITIZENSHIP.

DEPARTMENT OF STATE, *Washington*, ———, *190–*.

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SIR: The department is in receipt of an application for a passport of ——— ———, from which it appears that ——— ———, born in ———. Your attention is invited to the inclosed notice to former subjects of Russia who contemplate returning to that country, from which you will perceive that it is a punishable offense under Russian law for a Russian subject to obtain naturalization in any other country without the consent of the Russian Government. While this Government dissents from this requirement, it can not encourage American citizens whom it is likely to affect to place themselves within the sphere of its operation. Upon receiving satisfactory information that ——— ——— not intend to go to Russian territory, or that ——— ——— permission from the Russian Government to return, the application for a passport will be reconsidered immediately.

Returning the application, the certificate of naturalization, and the sum of $1 (———),

I am, sir, your obedient servant,

———,

Chief, Bureau of Citizenship.

RUSSIA.

Notice to American Citizens Formerly Subjects of Russia who Contemplate Returning to that Country.

A Russian subject who becomes a citizen of another country without the consent of the Russian Government commits an offense against Russian law, for which he is liable to arrest and punishment, if he returns without previously obtaining the permission of the Russian Government.

This Government dissents from this provision of Russian law, but an American citizen formerly a subject of Russia who returns to that country places himself within the jurisdiction of Russian law and can not expect immunity from its operations.

Jews, whether they were formerly Russian subjects or not, are not admitted to Russia unless they obtain special permission in advance from the Russian Government, and this department will not issue passports to former Russian subjects or to Jews who intend going to Russian territory, unless it has assurance that the Russian Government will consent to their admission.

No one is admitted to Russia without a passport, which must be viséed or indorsed by a Russian diplomatic or consular representative.

ELIHU ROOT.

DEPARTMENT OF STATE, *Washington, May 28, 1907.*

It was not until six months after these circulars were issued that their existence became known. The astonishment at this discovery gave way to earnest remon-

strance on the part of Louis Marshall, esq., and Edward Lauterbach, esq., on February 1, 1908, acting for the American Jewish Committee, as follows:

NEW YORK, *February 1, 1908.*

Hon. ELIHU ROOT,
Secretary of State, Washington, D. C.

SIR: In a circular letter, dated May 28, 1907, issued by the Department of State over your signature, appears the following paragraph:

"Jews, whether they were formerly Russian subjects or not, are not admitted to Russia unless they obtain special permission in advance from the Russian Government, and this department will not issue passports to former Russian subjects, or to Jews who intend going into Russian territory, unless it has assurance that the Russian Government will consent to their admission."

The meaning of this announcement can not be misunderstood. It segregates from the mass of American citizens those of the Jewish faith, whether naturalized or native born, and withholds from them one of the privileges of citizenship if they harbor the intention of visiting Russia without having first secured the consent of the Russian Government. All other citizens, of whatever race or creed, are assured an unlimited passport and are guaranteed the absolute protection of our flag. They encounter no discrimination at the hands of our Government. They are subjected to no humiliation. They are not compelled to submit to any inquisitorial intrusion into their private purposes, nor are they forced to conform to any religious test.

Under the plain implication of this regulation, however, an American citizen applying to the State Department for a passport, who is suspected of being a Jew, is for the first time in our history obliged to disclose his faith and must, if he be a Jew, satisfy the department that he does not intend to avail himself of the privilege of going to Russia, secured to him, in common with all of his fellow citizens, under the treaty solemnized between the United States and Russia in 1832.

Hitherto Russia alone has violated that treaty openly and notoriously. Hitherto our Government has consistently remonstrated against such breach and against the practice of Russian officials of making examinations into the religious faith of American citizens. Heretofore our State Department has declared to Russia again and again the principle formulated in the following terms by Mr. Adee, in his note to the legation of St. Petersburg on July 5, 1895:

"The Russian Government can not expect that its course in asserting inquisitorial authority in the United States over citizens of the United States, as to their religious or civil status, can ever be acceptable or even tolerable to such a Government as ours, and continuance in such a course after our views have been clearly and considerately made known may trench upon the just limits of consideration."

Now, however, there seems to have occurred a reversal of a time-honored policy and it is our Government that seeks to indulge in these inquisitorial practices and to apply an unconstitutional religious test to upward of a million of our own citizens, not only naturalized but native born, thus practically justifying Russia in the violation of her treaty obligations and condoning her contemptuous disregard of the American passport.

Believing that the promulgation to which your attention has been directed is the result of inadvertence, you are respectfully requested to reconsider the subject and to cause the circular letter to be withdrawn.

Very truly, yours,

LOUIS MARSHALL.
EDWARD LAUTERBACH.

The matter was brought up in Congress by Representative Goldfogle on the 4th of the same month. In response to these criticisms, the offensive circular was withdrawn, and the following substituted:

Notice to American Citizens Formerly Subjects of Russia who Contemplate Returning to that Country.

Under Russian law a Russian subject who becomes a citizen of another country without the consent of the Russian Government is deemed to have committed an offense for which he is liable to arrest and punishment if he returns without previously obtaining the permission of the Russian Government.

This Government dissents from this provision of Russian law, but an American citizen formerly a subject of Russia who returns to that country places himself within the jurisdiction of Russian law and can not expect immunity from its operations.

No one is admitted to Russia unless his passport has been visèed or indorsed by a Russian diplomatic or consular representative.

ELIHU ROOT.

DEPARTMENT OF STATE,
Washington, January 25, 1908.

In communicating this action to Messrs. Marshall and Lauterbach, Mr. Secretary Root invited them to advise him if they saw anything objectionable in this circular. In response to this invitation they wrote the following:

NEW YORK, *February 18, 1908.*

Hon. ELIHU ROOT,
Secretary of State, Washington, D. C.

DEAR SIR: We are in receipt of yours of the 11th instant, inclosing a circular, bearing date January 25, 1908, issued by the Department of State as a substitute for the objectionable circular of May 28, 1907, which you inform us, to our great satisfaction, has been withdrawn.

Availing ourselves of your courteous suggestion, that if we should see anything objectionable in the circular which is now in use you would be very glad to be advised of it, it occurs to us that the cautionary and humane objects of the circular would be fully subserved without at the same time militating against the historic policy of our Government, if the words "and can not expect immunity from its operations" were stricken from the second paragraph.

You are, of course, thoroughly familiar with the provisions of chapter 249 of the act of July 27, 1868, which are embodied in sections 1999 to 2001 of the United States Revised Statutes, which we nevertheless deem it desirable to quote, in order to give point to our remarks in favor of the proposed amendment of the new circular.

"SEC. 1999. Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendents, are subjects of foreign States, owing all allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation is declared inconsistent with the fundamental principles of the Republic.

"SEC. 2000. All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this Government the same protection of persons and property which is accorded to native-born citizens.

"SEC. 2001. Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress."

These sections proclaim to all the world the American doctrine of the right of expatriation; the right of all naturalized citizens of the United States while in foreign countries to receive from our Government the same protection which is accorded to native-born citizens; the duty of the President to demand the release of any American citizen unjustly deprived of his liberty by or under the authority of any foreign government, in violation of the rights of American citizenship as defined in these sections, and they denounce any declaration, instruction, or opinion by any officer of the United States which questions the right of expatriation, as inconsistent with the fundamental principles of our Government.

Although the circular of January 25, 1908, announces that our Government dissents, from the Russian claim, which denies the right of expatriation, it nevertheless adds that an American citizen formerly a subject of Russia who returns to that country can not expect immunity from the operation of the Russian law. This, it seems to us, is a declaration which questions the right of expatriation and which restricts the scope and meaning of sections 2000 and 2001 of the United States Revised Statutes. These sections clearly declare that any interference by a foreign government with the liberty of a naturalized citizen, based on his exercise of the right of expatriation, imposes upon our Government the obligation of securing to such citizen immunity from the operations of the law of a foreign government, which is "inconsistent with the fundamental principles of the Republic."

To declare that immunity can not be expected by an American citizen formerly a subject of Russia, under these circumstances, is a tacit recognition of the contention of the Russian Government, which is at war with our fundamental principles, and is

an implied invitation to that Government not only to violate the rights of American citizenship but also to disregard the obligations of the treaty of 1832 solemnized between the United States and Russia.

The least that our citizens can expect from our Government is, that it shall continue to assert the principles embodied in this statute, and that it shall not, directly or indirectly, give sanction to a contrary contention on the part of any foreign power, or relax to the slightest degree in the vigor of its assertion and protection of the rights of American citizenship as thus defined.

Very truly, yours,

LOUIS MARSHALL.
EDWARD LAUTERBACH.

This sharp but dignified presentation of the principles involved drew forth the announcement from Acting Secretary Bacon on February 18, 1908, that he had directed the objectionable words to be withdrawn and a new edition of the circular issued. (See American Jewish Year Book, 5669, p. 254.)

In the meantime the executive committee of the American Jewish committee had under consideration for a long period the question of the best method of approaching this serious subject, and reached the determination that the methods of diplomacy thus far had failed. To the earnest, dignified, and forceful remonstrances of our Government, extending over nearly half a century, the Russian Government had replied first by begging the question, and then by resort to all its well-known methods of subterfuge and duplicity.

Appreciating fully that the honor and dignity of the United States were at stake, the committee concluded that since the Russian Government could not be induced to change its attitude, there was no course left but to denounce existing treaties. The views of the committee were crystallized in the following letter addressed to President Roosevelt on May 18, 1908, by Judge Mayer Sulzberger, of Philadelphia, the president of the committee:

NEW YORK, *May 18, 1908.*

THE PRESIDENT: I am directed by the American Jewish committee, of which I have the honor to be president, to present to you this communication and petition concerning a question of much importance to all citizens of the country, in which, however, Jewish citizens have an added and special interest.

You are aware that for more than a quarter of a century the domestic policy of the Russian Empire has inflicted grievous hardships on its Jewish subjects. Whereas prior to the year 1881, there were so few Russian Jews in this country that the sight of one was a novelty, even to his coreligionists, in that year there began a steady immigration movement, which the most superficial observer at once recognized as being caused by pressure from within.

By degrees the facts have gradually filtered through the dense mass of misrepresentation used to explain an otherwise inexplicable phenomenon. A body of 5,000,000 pious believers had been so harried that the humility and patience inculcated by their religion, their traditions, and their antecedents, had among a small proportion of the younger generation given way to the gospel of despair, and this inevitable result was made the occasion, not for a return to saner and more humane methods of government, but for more cruel persecution.

The consequence has been that hundreds of thousands of these Russian subjects have been driven to our shores.

The outraged feelings of the people of the United States have been expressed in no uncertain tones, but the Government of Russia has refused the request of our Government even to receive a memorial on the subject.

As conditions in the Russian Empire so far as its Jewish subjects are concerned are in nowise improved, we feel ourselves justified in suggesting a mode whereby the Government of that country may be induced to take up the whole question and give it serious consideration.

The Russian Government seems unable to realize that Jewish citizens of this country are, under our Constitution, laws, treaties, and actual practice, the equals of all other citizens. It seems to cherish the idea that its hostility to its own Jewish subjects may be obtruded upon our Government as a policy to be imitated with reference to the Jewish citizens of our country.

This idea seems fixed and probably can not be altered save by direct and emphatic measures.

The power to take these measures is lodged by the Constitution in the Executive. He it is who may "by and with the advice and consent of the Senate," make treaties.

This power may now, we suggest, be efficiently used. In the communication of the Secretary of State under date of February 11, 1908, to Messrs. Louis Marshall and Edward Lauterbach, the statement was made that "the department has been endeavor-

ing and is endeavoring to secure from Russia a naturalization treaty which will practically dispose of this difficulty."

Governments, like individuals, must study actual conditions, if practical results are to be obtained. One condition that may not be ignored is the view of the Russian Government that it has the "right" unilaterally to annul a treaty in whole or in part. It exercised that "right" in 1870 (during the Franco-German War) by declaring itself no longer bound by that part of the Treaty of Paris (1856) which had reference to the Black Sea. And though the signatory powers at a conference declared that "it is an essential principle of the law of nations that no power can liberate itself from the engagements of a treaty, nor modify the stipulations thereof, unless with the consent of the contracting powers by means of an amicable arrangement," yet the fact remains that Russia received as a concession the thing that had been declared to be wrong.

The Government of Russia has exercised a similar "right" with reference to the first article of the treaty of commerce and navigation entered into between it and our Government in the year 1832. That treaty was intended to promote the freedom of commerce and navigation as respects the high contracting parties. The object is stated in full in the first article, which is as follows:

"There shall be between the territories of the high contracting parties, a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

Since the ratification of this treaty, our Government has faithfully and uniformly adhered to and performed all the provisions thereof. The Government of Russia, on the other hand, has uniformly refused, in at least one respect, to conform to the provisions of the first article. It is well known to all familiar with the diplomatic history of the country that Jewish citizens of the United States, as well native as foreign born, have been subjected by Russian officials, on our own soil, to an inquisition concerning their religious faith or racial antecedents which is totally foreign to the spirit of our Government and to the tenor of its Constitution and laws. Moreover, after such inquisition made, the right guaranteed to citizens of the United States under the first article of the treaty of 1832 has been uniformly withheld. For reasons of public policy, the Government of the United States has, through many administrations, preserved an attitude of respectful protest against Russia's violation of the first article of this treaty, though on one occasion (Foreign Relations, 1895, pp. 1072–1074) it was intimated to Russia that unless her consuls desisted from their inquisitorial practice with respect to our Jewish citizens we might feel constrained to withdraw their exequaturs. What adds to the irritation produced by Russia's treatment of our citizens of the Jewish faith is the fact that has become known to us that it is in contrast with that accorded to Jewish citizens of the German Empire whose passports for Russia are freely viséed, and this principle extends also to the Jewish agents of German Jewish merchants who desire to visit the Russian Empire on business.

Moreover, we have learned of this new thing: That while a Jewish citizen of the United States taking passage on a Russian steamer from New York to Libau may now have his passport viséed without trouble by the Russian consul at New York, the ambassador's office at Washington distinctly refuses visé to Jewish applicants on the avowed ground of their Judaism. This remarkable disparity of conduct is explicable only on the theory that Russia's policy is to favor its own steamship traffic from the United States and to discourage that of other nations, including our own. Our country is thus made an unwilling accomplice in the unfair treatment of citizens of countries with which we have treaties containing "the most favored nation" clause, and the best evidence is before us that in Russia's conduct there is involved no real principle except the promotion of its shipping interests, without regard to human rights or treaty obligations.

We beg to suggest that in the negotiation of a new treaty the first question to be seriously considered is whether a naturalization treaty will be thought useful by Russia. Its policy having been to declare its subjects incapable of throwing off their allegiance peaceably and lawfully, what guarantee can we have whether it has undergone a real and lasting change of opinion? And if it has not suffered such change, what reasonable prospect is there that the terms of such a treaty will be better observed than the terms of former treaties?

Nations are subject to no effective coercion save the horrible pressure of war, which in ll ordinary cases is inapplicable and ought to be reserved only for that last

extremity when duty, conscience, and the interests of mankind unite to make it unavoidable and right.

Keeping in mind the views held by the Russian Government, no doubt sincerely, in its interpretation of treaties that have become useless and injurious to its interests, we humbly suggest that with Russia no treaty should be made which does not contain articles of such a character that her own interest would urge grateful compliance with the obligations of the treaty.

Of the treaties now in force between Russia and the United States there are but two which are of immediate concernment in this aspect. The first is the treaty of commerce and navigation of the year 1832, before alluded to, and the second is the extradition convention concluded March 28, 1887. The former is terminable at any time after a year's notice; the latter upon six months'.

The treaty of 1887 gives to Russia advantages far greater than any we can enjoy under it. We do not believe that Russia would be sought as an asylum to any considerable extent by American criminals. On the other hand, in a country where murder seems to be established as a means of political persuasiveness, not only among sections of the population, but also in certain departments of the Government, the conditions are substantially different. Every asylum State constitutes a serious handicap to the efforts of the Russian Government in carrying out its domestic policy toward its freedom-loving subjects. Neither our traditions nor common humanity nor international comity can demand of us to maintain a sympathetic attitude toward Russian governmental policy in this respect.

If, therefore, any new treaty is to be now negotiated, we venture to suggest the propriety of incorporating into it the provisions of the treaties of 1832 and 1887 as well as those concerning other subjects which may be under discussion. And it would seem wise also, even if it should appear tautological, to insert the well-known principle of international law that "a treaty which has been broken by one of the parties to it is not binding upon the other through the fact itself of the breach and without any reference to any kind of tribunal." (Hall's International Law, 5th edition, p. 352.) As both the treaties of 1832 and 1887 can be made to expire on short notice, there is no practical difficulty in carrying out the suggestion.

The commercial disadvantage to us of the expiry of the treaty of 1832 is not appalling. International trade, like all trade, is not in its bulk based on favoritism, but on mutual interest. We can not sell what Russia does not want, nor do we buy what we do not expect to use advantageously for ourselves. The laws of commerce will in the end prevail over mere fancies or momentary estrangements.

But the promotion of commerce, though a high function of statesmanship, is not its exclusive duty. A point in international relations may be reached when a first-class power can better afford to lose a substantial advantage than tamely submit to the domination of a foreign power formidable for population and resources. Russia is such a first-class power. Its teeming millions will, one day, under an enlightened government, worthily represent the best results of civilization. Were it weak, we could afford still further patience and indulgence.

But we also owe something to the dignity of our own country. Our Government, we fondly believe, is the greatest on earth with respect to freedom, equity, and justice. Other nations have their ideals, which we must view with respect, and, if possible, with sympathy. No nation can or ought to ask us to adopt its antithetical views and yield our own. And if a request so unreasonable be made, either in words or by a course of conduct, it is out duty energetically to refuse and repel it.

Our prayer, therefore, is that due notice be given to Russia of the intended termination of the two treaties aforesaid, and that no new treaty be made unless all the provisions covering both subjects, and such others as may be agreed upon, are contained in one instrument which shall likewise contain practical provisions to secure its enforcement by denying its further benefits to the party disregarding its obligations thereunder, or any of them.

If our language in this paper be warmer than diplomatic usage would warrant, we beg you to remember that we are addressing the head of our own Government on a matter in which our sympathies are profoundly engaged, and are not unmindful of the difficulty of righting wrongs incrusted with age.

Nevertheless, we devoutly hope and firmly believe that the Executive of the Nation will find a way to obtain what justice demands, by practically realizing the principle of the Constitution that treaties are part of the supreme law of the land, and that all citizens have an equal right to their benefits.

We send herewith, as illustrative of one part of this paper, a copy of the Memoirs of Prince Urussov (Harper, New York, 1908).

I have the honor to be,

Your very humble servant,

MAYER SULZBERGER,
President American Jewish Committee.

To that letter the following reply was received.

THE WHITE HOUSE,
Washington, May 20, 1908.

MY DEAR SIR: Your communication of the 18th instant has been received and called to the attention of the President, by whose direction it has been referred for the consideration of Secretary Root.

Very truly, yours,

WM. LOEB, Jr.,
Secretary to the President.

Mr. MAYER SULZBERGER,
356 Second Avenue, New York, N. Y.

The reference to the Secretary of State of this calm and judicial presentation of the important issues involved, embodying the recommendation of a method by which the enormity of the abuse inflicted by the Russian Government on the whole body of American citizenship could be rectified, drew forth only the following letter:

DEPARTMENT OF STATE,
Washington, June 4, 1908.

Mr. MAYER SULZBERGER,
President American Jewish Committee,
356 Second Avenue, New York City.

SIR: The department has received, by reference from the President, your letter of May 18, presenting certain views of your committee and urging action on the part of this Government with reference to the attitude of the Russian Government toward people of the Jewish faith. The letter will receive attentive consideration.

You state that you have heard that Jewish citizens of the United States taking passage on a Russian steamer from New York to Libau may now have their passports viséed by the Russian consul general at New York, but that the Russian Embassy at this Capital refuses to visé their passports. You are invited to furnish the department with a statement of the circumstances which support this statement. It is possible that the absence of the Russian ambassador, who sailed for Europe in April, may explain this rather singular difference between the two offices.

I am, sir, your obedient servant,

ELIHU ROOT.

In response thereto a letter was sent to the Secretary of State by the president of the American Jewish committee, in which, as may be seen, the questions of the Secretary of State are fully answered, and the request of the American Jewish committee reiterated in the following terms:

NEW YORK, *June 17, 1908.*

Hon. ELIHU ROOT,
Secretary of State, Washington, D. C.

SIR: The American Jewish committee acknowledge receipt of your letter of June 4, 1908, wherein you acknowledge receipt of our communication to the President, dated May 18, referred by him to you, and state that it will receive attentive consideration.

You also invite us to furnish the department with a statement of the circumstances which support our allegation that while a Jewish citizen of the United States taking passage in a Russian steamer from New York to Libau may now have his passport viséed without trouble by the Russian consul at New York, the ambassador's office at Washington distinctly refuses the visa to Jewish applicants on the avowed ground of their Judaism.

We assume that as to the latter portion of our statement no proof is necessary.

The refusal of the Russian Government to perform its treaty obligations in this respect is established not only by the records of the State Department during the last 40 years, but has on two occasions been referred to by the President of the United States in the annual message to Congress, first by President Arthur in 1883, and then by President Cleveland in 1895.

Moreover, the platforms of both parties, in the national conventions of 1904, promised a redress of this grievance.

"We pledge ourselves," said the Republican platform, "to insist upon the just and equal protection of all our citizens abroad."

And the Democratic platform was equally explicit: "We demand that all over the world a duly authenticated passport issued by the Government of the United States to an American citizen shall be proof of the fact that he is an American citizen and shall entitle him to the treatment due him as such."

Nevertheless, in order to comply with your request we detail the circumstances of Mr. Louis J. Horowitz's case.

Mr. Louis J. Horowitz came to this country at the age of 15, about 18 years ago, and is a citizen of the United States. He is the vice president of the Thompson-Starret

Co., the corporation which built the great station of the Pennsylvania Railroad Co. at Washington, D. C. During the past four years he has been actively connected with the said company and is now the virtual head of its business department.

On March 30, 1908, being about to go to England on business, he determined to visit his birthplace in Russia, and at the same time to go to St. Petersburg for the purpose of investigating various matters connected with the proposed contract between the Russian Government and his company regarding the construction of a passenger depot. Having sailed for England on March 31, 1908, in a hurry, he requested the company's local manager at Washington to secure his passport and mail it to him. His representative learned that there were difficulties and therefore retained Messrs. Penfield & Penfield to attend to the securing and validating of the passport.

On April 1, 1908, Judge Penfield presented the passport at the Russian Embassy at Washington, was asked whether Mr. Horowitz was a Jew, replied in the affirmative, and the visé was refused.

In consequence of this refusal Mr. Horowitz returned home without visiting Russia.

We do not think that the ambassador's subsequent departure for Russia is at all relevant. Nor would his previous departure have been. The embassy was, in Mr. Horowitz's case, consistently violating the treaty of 1832, as it had done for decades; certainly since 1866.

The inquiry concerning the strange departure of the Russian consul at New York from the uniform practice concerning Jews seems to us equally irrelevant to the prayer of our petition. The circumstances are, however, interesting in another aspect. They show that the Russian Government, having gone into the business of carrying passengers from Libau to New York and from New York to Libau, purposes to make its commercial venture a success. A person who has bought his ticket to Libau will escape all inquisition as to his religion or race and will have his passport promptly viséed. Of course if he has not bought such a ticket the inquisition is put in force.

The following are the facts in Bernstein's case:

Mr. Herman Bernstein, a citizen of New York, desiring to visit Russia and aware of the uniform refusal of the Russian officials to visé American passports if the holder thereof happens to be a Jew, was advised that he would encounter no difficulty if he engaged passage in the Libau steamer, being part of the volunteer fleet belonging to the Russian Government. He accordingly purchased his ticket for Libau on the steamship *St. Petersburg*, and on May 13, 1908, went to the Russian consulate to have his passport viséed. On entering the consulate he was handed a paper and was asked by an official to fill it out. He wrote therein his name; the place of his birth—Scherwindt, Germany; his occupation—author and business representative. He was asked to state whether he was a citizen, which he answered in the affirmative. The line in which he was asked as to his religion, he left blank. A statement he was about to make was prevented by the official's declaration that he wanted the blanks filled, nothing more. The paper (with the religious blank unfilled) was handed to the official who asked: "Are you going on business or on a pleasure trip?" Bernstein answered that he was going as a business representative and was also interested in the emigration question, which he might describe.

The official then took the blank and handed it to the vice consul, who kept it for about 10 minutes, then walked over to where Bernstein was, told him the fee was $1.20, and viséed the passport.

We may be pardoned for calling attention to the fact that our Government has always faithfully performed its treaty obligations to Russia as to other States and that its insistence upon the rights of our citizens who hold its passport has always been clear and emphatic. Memorable correspondence on the subject of the protection afforded by our national passport not only with Russia, but with the Sublime Porte is on file in the Department of State. From this it will be seen that there have been places where and times when Christian citizens of our country were threatened with just such a denial of their rights as Jewish citizens are now subjected to.

Our letter of May 18, to which we beg again to refer, suggested a lawful, peaceful, regular, practical, and practicable way by which Russia may be persuaded of the impolicy of continuing its unfriendly conduct. Such a course we think our Government ought to pursue, promptly and without allowing itself to be diverted from the consideration of the great and fundamental question to the discussion of side issues.

We can only repeat our original prayer that due notice be given to Russia of the intended termination of the treaties of 1832 and 1887, and that no new treaty be made unless all the provisions covering both subjects and such others as may be agreed on are contained in one instrument which shall likewise contain practical provisions to secure its enforcement by denying its further benefits to the party disregarding its obligations thereunder or any of them.

I have the honor to be,

Your very humble servant,

MAYER SULZBERGER,
President American Jewish Committee.

Inasmuch as the first communication had been originally addressed to the President, it was deemed proper to send a copy of this letter of June 17 to the President, which was done, with the following letter of transmittal:

NEW YORK, *June 30, 1908.*

THE PRESIDENT: By direction of the American Jewish Committee I had the honor to address a letter to the President on May 18, 1908, protesting against the continued violation by the Russian Government of the treaty of 1832 in refusing to permit Jewish citizens of the United States the right to visit Russia and transact their business there, and suggesting a method by which the Russian Government might be induced to change its course of action.

This letter being referred to the Secretary of State was acknowledged by him in a letter calling for further information.

The information called for was duly given in my reply of June 17, 1908, a copy of which I inclose for your information.

The original mandate of the committee directing me to present the matter to the President himself applies, as I conceive, to the further correspondence, and for that reason I have deemed it my duty to send this communication.

I am, sir, your obedient servant,

MAYER SULZBERGER,
President American Jewish Committee.

No further response was received from the Department of State or President Roosevelt to indicate that the matter was receiving due and proper consideration.

But on June 19, 1908, the following plank was adopted by the Republican National Convention:

"We commend the vigorous efforts made by the administration to protect American citizens in foreign lands, and pledge ourselves to insist upon the just and equal protection of all our citizens abroad. It is the unquestioned duty of the Government to procure for all our citizens, without distinction, the rights of travel and sojourn in friendly countries, and we declare ourselves in favor of all proper efforts tending to that end."

On July 4, the Democratic Party in its platform defined its position thus:

"We pledge ourselves to insist upon the just and lawful protection of our citizens at home and abroad, and to use all proper methods to secure for them, whether native-born or naturalized, and without distinction of race or creed, the equal protection of law and the enjoyment of all rights and privileges open to them under our treaty; and if, under existing treaties, the right of travel and sojourn is denied to American citizens, or recognition is withheld from American passports by any countries on the ground of race or creed, we favor prompt negotiations with the Governments of such countries to secure the removal of these unjust discriminations. We demand that all over the world a duly authorized passport issued by the Government of the United States to an American citizens shall be proof of the fact that he is an American citizen and shall entitle him to the treatment due him as such."

And on July 28 the Independence Party made the following declaration:

"American citizens abroad, whether native-born or naturalized, and of whatever race or creed, must be secured in the enjoyment of all rights and privileges under our treaties, and wherever such rights are withheld by any country on the ground of race or religious faith, steps should be taken to secure the removal of such unjust discrimination."

Thus, practically the whole body of American citizenship expressed itself upon the question in not uncertain terms.

On July 17, 1908, the following letter was addressed to the Hon. William H. Taft, who had been nominated a month before as the candidate of the Republican Party for the Presidency:

NEW YORK, *July 17, 1908.*

DEAR SIR: You are doubtless aware that for some decades the Russian Government has refused to permit Jewish citizens of the United States to enjoy the rights guaranteed to all citizens by the treaty of 1832, and that all representations hitherto made by our Government have been fruitless.

The American Jewish committee directed me some months ago to address the President on the subject, and the communication was referred to the Secretary of State, with whom there was some further correspondence.

The platforms of both parties of 1904 and 1908 contain declarations on the subject.

The conduct of Russia in flouting the passport of the United States is naturally resented by the people more immediately concerned, though, when the matter is studied, the grievance to the whole Nation seems equally great.

The committee feels that a more specific declaration of the earnestness of our Government in pressing for redress would probably effect that which mere diplomatic writing has hitherto failed in.

I inclose a copy of the correspondence above referred to and beg to suggest that a declaration on the subject by you in your letter of acceptance would be of great advantage to the cause.

While I have not the presumption to suppose that the declaration, if you conclude that it ought to be made, will be prepared by anybody but yourself, I trust that you will forgive the suggestion that the inclosed memorandum contains an idea which we would like you to consider when studying the subject.

I am, sir, your obedient servant,

MAYER SULZBERGER,
President American Jewish Committee.

Hon. WILLIAM HOWARD TAFT,
The Hermitage, Hot Springs, Va.

[Memorandum accompanying letter to Mr. William H. Taft, July 17, 1908.]

Our Government has borne from one or more foreign states the disregard of the rights of some of our citizens guaranteed them by international law or by specific treaties in the belief that patience and magnanimity are the most potent means of procuring international justice. When these fail, it would seem timely to give notice of the termination of treaties thus violated or to modify diplomatic relations with offending governments.

To that letter the following reply was received:

HOT SPRINGS, VA., *July 22, 1908.*

MY DEAR SIR: I beg to acknowledge receipt of your favor of the 17th of July, together with the inclosure which you sent, which I shall read with interest.

Very sincerely, yours,

WILLIAM H. TAFT.

MAYER SULZBERGER, Esq.,
356 Second Avenue, New York, N. Y.

Within a week Mr. Taft made the following statement in his letter of acceptance:

"The position which our country has won under Republican administrations before the world should inure to the benefit of everyone, even the humblest of those entitled to look to the American flag for protection, without regard to race, creed, or color, and whether he is a citizen of the United States or of any of our dependencies. In some countries with which we are on friendly terms, distinctions are made in respect to the treatment of our citizens traveling abroad and having passports of our executive, based on considerations that are repugnant to the principles of our Government and civilization. The Republican Party and administration will continue to make every proper endeavor to secure the abolition of such distinctions, which in our eyes are both needless and opprobious."

Following the reference to the passport question in his letter of acceptance, Mr. Taft, on August 11, 1908, wrote as follows to Mr. Jacob H. Schiff:

HOT SPRINGS, VA., *August 11, 1908.*

MY DEAR MR. SCHIFF: I have your kind letter of August 3, and thank you for your congratulations upon my speech of acceptance. You can count on my giving special attention to the passport business should I be intrusted with the mandate of power.

* * * * * * *

Very sincerely, yours,

WM. H. TAFT.

JACOB H. SCHIFF, Esq.,
William and Pine Streets, New York, N. Y.

The next step in relation to the passport question was the letter sent on October 19, 1908, to Mr. Jacob H. Schiff by Secretary of State Root, in which the following appeared:

"The other matter relates to securing from the Russian Government equality of treatment of all American citizens who seek to enter Russia with passports, without regard to their creed or origin.

"Our Government has never varied in its insistence upon such treatment, and this administration has repeatedly brought the matter to the attention of the Russian Government and urged the making of a new treaty for the purpose of regulating the subject.

"We have but recently received an unfavorable reply to this proposal, and we have now communicated to Russia an expression of the desire of this Government for a complete revision and amendment of the treaty of 1832, which provides for reciprocal rights of residence and travel on the part of the citizens of the two countries. We have expressed our views that such a course would be preferable to the complete termination of the treaty, subjecting both countries to the possibility of being left without any reciprocal rights whatever owing to the delay in the making of a new treaty.

"The course which the administration is following in this respect is the one which appears to us to be best calculated to attain the end desired, an end as to which I beg to assure you the administration is in full and sympathetic agreement with you."

This letter was by request given out to the newspapers and widely circulated throughout the United States.

A week later, in a speech at Brooklyn, New York, Mr. Taft expressed himself as follows:

"No American passport should be subject to investigation beyond the certificate itself as to citizenship. I wish to say that nothing will appeal to me if I am elected more than the duty of devising ways and means to make an American passport cover every American citizen the world over. But you must not misunderstand me. I promise to use every effort on my part. How far I can succeed depends upon the future. Every effort is being made now, and what I desire to emphasize is the sincerity of the promise in the Republican platform."

Two weeks later, in a speech at Thalia Theater, New York, he pronounced his attitude as follows:

"But that national prestige must be used not only for the benefit of the world at large, but for the benefit of our own citizenship, and therefore as we gain in international prestige we ought to assert our insistence that our passports certifying our citizenship should secure to every man, without regard to creed or race, the same treatment, the same equality of opportunity, in every nation on the globe. Now, this is not a matter with respect to which promises of immediate accomplishment can be made, but of this you can be certain—that if you commend the administration of Theodore Roosevelt by electing a Republican administration to succeed his, that administration will continue to press that question until the certificate contained in an American passport shall have the effect that it ought to have."

With the exception of the resolution introduced in Congress by Representative Henry M. Goldfogle on January 18, 1909 (see American Jewish Year Book, 5670, pp. 37–38), which was emasculated by the Committee on Foreign Affairs at the instance of Secretary of State Root, as shown by the report of February 15 of the same year (ibid., 38–39), nothing was done either by the President or Congress.

But great hopes were entertained of energetic action by the administration of President Taft, because of his expressed views, and of the following pronouncement in his inaugural address on March 4, 1909:

"The policy of the United States in the Spanish War, and since, has given it a position of influence among the nations that it never had before, and should be constantly exerted to securing to its bona fide citizens, whether native or naturalized, respect for them as such in foreign countries. We should make every effort to prevent humiliating and degrading prohibition against any of our citizens wishing temporarily to sojourn in foreign countries because of race or religion."

Thus far our hopes have not been realized.

The first indication that but little attention had been paid to the proposals of the American Jewish committee, as contained in their letters of May 18 and June 17, 1908, given above, came on May 6, 1909, when, at the instance of the new administration, the Senate ratified and made public an agreement between our country and Russia, concluded and signed at St. Petersburg on June 25–12, 1904, to regulate the position of corporations or stock companies and other commercial associations, industrial or financial. This was the only agreement of any consequence entered into between the United States and Russia in 22 years—the period during which the passport controversy was at its height. Remonstrances, therefore, to the proclamation of this treaty by the President were dispatched in the following terms on May 11, 1909:

1303 GIRARD AVENUE,
Philadelphia, May 11, 1909.

The SECRETARY OF STATE. The American Jewish committee has just learned that on May 6, 1909, the Senate ratified and made public an agreement between our country and Russia, concluded and signed at St. Petersburg on June 25–12, 1904, to regulate the position of corporations or stock companies and other commercial associations, industrial or financial.

Presumably nothing is now needed to give this agreement full effect save its promulgation by the President.

The committee, as will appear from correspondence on file in your department, is vitally interested in our treaty relations with Russia, because of the latter's refusal to recognize that the treaties made by our country are intended to assure to Jewish citizens equal rights with other citizens. In point of fact Russia has steadily refused to accord such rights to Jewish citizens of the United States.

The committee has entertained the hope that the endeavor of our Government to make new treaty arrangements whereby Russia will change its attitude might prove successful. It fears, however, that the promulgation of this agreement of 1904 would tend rather to defeat than to promote these endeavors.

According to Russian view, the benefits of the new agreement would be practically denied to American citizens of the Jewish faith, because corporations, stock companies, and other commercial associations can only work by means of individuals; indeed, in the last analysis, are merely individuals, who, if they happen to be Jews, may be held by the Russian authorities to be persons subject to exceptional and derogatory treatment and to denial of rights.

Should the Government of Russia take such a stand, the present difficulties, however great, will be enhanced. Its position would be strengthened and it might prefer to adhere to its old-time prejudiced policy.

If in the end our Government, to preserve its dignity and the rights of its citizens, should be compelled to denounce all the treaties subsisting between the two contries, such denunciation would necessarily comprehend the agreement of 1904, just ratified.

The committee hopes that the suggestions herein advanced may be duly considered before the final promulgation of the agreement in question by the President.

For the American Jewish Committee:

MAYER SULZBERGER, *President.*

To this, the following response was received:

WASHINGTON, *May 18, 1909.*

Mr. MAYER SULZBERGER,
President of the American Jewish Committee,
1303 Girard Avenue, Philadelphia, Pa.

SIR: I have to acknowledge the receipt of your letter of the 11th instant in which you present the views of your committee respecting the action of the United States Senate in approving the agreement between the United States and Russia of June 25-12, 1904, relating to corporations, etc.

In reply I have to say that careful consideration will be given to your communication.

I am, sir, your obedient servant,

HUNTINGTON WILSON, *Acting Secretary.*

The careful consideration promised in Acting Secretary Huntington Wilson's letter was shown by the proclamation of the agreement on June 15, 1909, without granting the American Jewish committee a further opportunity to present its views.

The salient parts of this agreement are as follows:

"1. Corporations or stock companies, and other industrial or financial commercial organizations, domiciled in one of the two countries, and on the condition that they have been regularly organized in conformity to the laws in force in that country, shall be recognized as having a legal existence in the other country, and shall have therein especially the right to appear before the courts, whether for the purpose of bringing an action or defending themselves against one.

"2. In all cases the said corporations and companies shall enjoy in the other country the same rights which are or may be granted to similar companies of other countries.

"3. It is understood that the foregoing stipulation or agreement has no bearing upon the question whether a society or corporation organized in one of the two countries will or will not be permitted to transact its business or industry in the other, this permission remaining always subject to the regulations in this respect existing in the latter country."

The importance of this agreement is emphasized at this point because one of the pleas advanced at all times by those in high position against the abrogation of the treaty of 1832 is that such action would interfere with the great industrial and financial interests which a few Americans have established in Russia. A perusal of the provisions of this agreement demonstrates that it amply safeguards all those interests, which occasion so much concern, so far as any agreement with a govermnent like Russia may accomplish this. While Russia can not be expected to respect this new agreement with any better faith than she shows to the provisions of the treaty of 1832, yet since in this case it is apparently in her interest to do so it may reasonably be expected that no flagrant violation will occur in the immediate future.

The American Jewish committee, though greatly disappointed at the proclamation of this agreement, felt encouraged to hope for better things, because on June 1, 1909, announcement had been made that the experienced diplomat, Mr. W. W. Rockhill, then minister to China and previously an Assistant Secretary of State, had been appointed ambassador to Russia. Advantage was taken of his presence in this country to arrange a conference with him, the President, and the Secretary of State, in August of that year. At this conference the American Jewish committee was represented by Judge Mayer Sulzberger and Dr. Cyrus Adler, and the whole passport situation was presented to Mr. Rockhill in all its various phases, and the desires of the committee with respect to the termination of the treaty were enlarged upon. Assurances were given by President Taft that Mr. Rockhill would be instructed to do everything possible to settle this vexatious question.

The attitude of our Government toward Russia, in spite of the fact that that Government has persisted in the violation of the fundamental terms of the treaty of 1832, was shown further in the hasty granting to Russia on January 18, 1910, of the minimum tariff rates under the provisions of the Payne-Aldrich Tariff Act. That this course should be adopted in disregard of the remonstrances of the American Jewish committee, on file in the Department of State, occasioned grave misgivings among the members of the committe as to whether its communications were in fact receiving consideration.

Nevertheless, since Mr. Rockhill did not reach St. Petersburg until late in the summer of 1909, the American Jewish committee felt that justice to the new administration required that it be given abundant time to demonstrate its earnestness and its ability to deal with the question before the committee should institute further action. Hence it was not until February 24, 1910, that the committee again addressed the President. On that date the following letter, signed, as will be seen, by the entire executive committee of the American Jewish committee, was transmitted:

NEW YORK, *February 24, 1910.*

THE PRESIDENT: On May 18, 1908, the American Jewish committee, through its President, addressed President Roosevelt with regard to the persistent violation by Russia of its treaty obligations to this country, in so far as the rights of Jewish citizens traveling or wishing to travel in Russia are concerned.

The communication was referred to the Secretary of State, and while we are not informed that the negotiations with Russia have been concluded, we understand that they are being carried on with some hope of success.

In the meanwhile we have learned that Germany, Austria, and France have all obtained concessions from Russia, which, though they do not cover the points for which we contend, at least assure to their Jewish citizens rights which are denied to citizens of our own country. The significance of the fact seems to be that when Russia believes it for her interest to abandon the strictness of her policy, she does not hesitate to do so.

The treaty with the German Empire, originally negotiated in 1874, was supplemented in 1894, in 1897, and 1904; the treaty with Austria was put in force in 1906, and the treaty with France, originally concluded in 1874, was modified in 1906.

We append copies of the text and translation of these several treaties so far as they concern the subject in controversy. An examination of them shows that these States have all insisted on a clause specifically protecting Jews against the pretended power of Russia to interpret a treaty by its domestic ordinances. The German treaty expressly protects persons "of the Mosaic religion"—"Israelites." The Austrian does the same, while the French forbids any distinction by reason of the religion of the parties.

According to our information, these concessions were obtained from Russia in connection with the exercise by those Governments of their power over minimum tariffs. It is pertinent to mention here that the ratification of these treaties by Russia has not resulted in her cheerful compliance therewith. We refer to an interesting debate in the French Chambers on December 27, 1909, wherein the grievances of the French Jews on this head were sharply resented.

We are, as ever, firmly convinced that American Jews will not enjoy equal rights under Russian treaties until Russian interests shall coincide with Russia's good faith, and that this contingency will not happen until all present treaties shall have been abrogated and one new treaty be made which shall cover all our relations of every nature with that Empire, a treaty whose disregard by one of the parties thereto shall instantly entitle the other to declare it at an end.

We do not wish to enlarge, because our views appear at length in our letter to President Roosevelt of May 18, 1908, a copy of which is sent herewith. We also send copies of the treaties referred to (so far as they concern the subject under discussion), as also a report of the debate in the French Chambers above alluded to.

In conclusion we wish to urge that the removal of the disability complained of concerns all American citizens, since while it remains it is humiliating to our national dignity.

We earnestly request that you grant us an interview at which we may personally present our views. If you could name any day prior to March 15 (except Fridays, Saturdays, and Sundays), we shall deem it an honor to wait upon you.

We have the honor to be,

Your very humble servants,

The Executive Committee of the American Jewish Committee; Julian W. Mack, Chicago, vice president; Jacob H. Hollander, Baltimore, vice president; Isaac W. Bernheim, Louisville, treasurer; Cyrus Adler, Philadelphia, Pa.; Harry Cutler, Providence, R. I.; Samuel Dorf, New York, N. Y.; J. L. Magnes, New York, N. Y.; Louis Marshall New York, N. Y.; Julius Rosenwald, Chicago, Ill.; Jacob H. Schiff, New York, N. Y.; Isador Sobel, Erie, Pa.; Cyrus L. Sulzberger, New York, N. Y.; Mayer Sulzberger, president.

Appended: 1. Copy of the committee's letter to President Roosevelt; 2. Excerpts from Russian treaty with Germany (1904); 3. Excerpts from Russian treaty with Austria (1906); 4. Excerpts from Russian treaty with France (1906); 5. Report of Debate in French Chambers, December 27, 1909. (See pp. 259-266, following.)

To this the following response was received from the secretary to the President:

THE WHITE HOUSE,
Washington, February 26, 1910.

MY DEAR SIR: The President has received your letter of February 24, with inclosures, in regard to the protection of Jewish citizens of the United States traveling in Russia and has referred all the papers to the Secretary of State. As soon as he hears from Secretary Knox the President will be glad to fix a time for an interview with your committee, as you suggest.

Very truly, yours,

FRED. W. CARPENTER,
Secretary to the President.

MR. MAYER SULZBERGER,
President American Jewish Committee, 356 Second Avenue, New York.

On March 10, President Taft transmitted the following letter of Secretary of State Knox:

DEPARTMENT OF STATE,
Washington, March 8, 1910.

MY DEAR MR. PRESIDENT: I have received Mr. Carpenter's letter of the 26th ultimo inclosing a communication addressed to you by the president of the American Jewish committee relative to the alleged violation by Russia of her treaty obligations in the treatment of American citizens of the Hebrew race who may desire to enter and sojourn in Russia.

Mr. Sulzberger refers to the treaties concluded by Russia with Germany, France, and Austria, and states that "though they do not cover the points for which we contend, at least (they) assure to their Jewish citizens rights which are denied to citizens of our own country."

It is true that Germany, France, and Austria have concluded with Russia arrangements permitting the entry and sojourn in Russia of Jewish commercial travelers, citizens of those countries. The treaties provide in brief that such commercial travelers may enter Russia after their passports are visèed by the nearest Russian consular officer and that they may remain for a period of six months. Their sojourn may also be extended for a further period of six months upon application to the proper Russian bureau and the payment of certain prescribed fees. It will be noted, however, that in the agreement of 1874 with Germany the following proviso occurs:

"It is mutually understood, however, that the above agreement shall not in any way interfere with the special laws, decrees, and ordinances, with respect to commerce, trade, and police, which are in force or may be enacted in the country of either of the contracting parties, and are equally applicable to all foreigners."

The department has been careful to ascertain from the American diplomatic officers at St. Petersburg that exactly the same treatment is accorded by Russia to American Jewish commercial travelers as is granted to Jewish commercial travelers who may be citizens or subjects of the countries mentioned above. Moreover, under the provisions of Articles I and XI of the treaty of 1832 between the United States and Russia, American citizens are entitled to enter, sojourn, and reside in Russia with "the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and regulations in force concerning commerce." The

embassy at St. Petersburg also reports that under the most-favored clause of Article X the Russian Government accords to American Jewish commercial travelers exactly the same treatment as is accorded to those of France, Germany, and Austria.

I quote for your information Articles I and XI of the treaty of 1832 with Russia:

"ARTICLE I. There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce.

"ART. XI. If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party freely where it is freely granted to such nation, or on yielding the same compensation when the grant is conditional."

I may add that the department does not recall that there has been presented to it or to the American embassy at St. Petersburg a specific case showing that discrimination has been made by the Russian authorities in the treatment of American Jewish citizens as compared with that accorded to Jewish citizens of other countries. Should such a case arise the department would immediately take the matter up with the Russian Government.

With reference to Mr. Sulzberger's suggestion that all treaties with Russia be abrogated and a new one concluded which shall cover all relations of every nature with that Empire, I beg to say that some months ago this department suggested to the Russian foreign office the advisability of revising the treaty of 1832 and is still in correspondence with the embassy at St. Petersburg on the subject.

I return herewith the papers transmitted with Mr. Carpenter's letter, and am, my dear Mr. President,

Yours, very sincerely, P. C. KNOX.

This letter demonstrated an unwillingness on the part of Secretary of State Knox to deal with the question on the lines of the precedents established by all the Secretaries of State who had held office during the preceding 45 years. It showed further his disinclination to treat the subject from the point of view of the insult to American citizenship involved, and convinced the members of the American Jewish Committee that results in accordance with their views were far from attainment. A letter drafted in reply to the Secretary's was not transmitted, as no effective results were to be expected so long as the attitude of the Secretary of State remains unaltered.

Shortly thereafter Judge Mayer Sulzberger and Mr. Jacob H. Schiff had occasion to interview the President on other business. The President introduced the passport question, when the unchanged position of the American Jewish committee was stated anew, and as Ambassador Rockhill was expected to return to this country in May a conference between the President, the Secretary of State, Mr. Rockhill, Judge Mayer Sulzberger, Mr. Jacob H. Schiff, and Dr. Cyrus Adler was arranged, and took place on May 25, 1910. The matter was presented at large by the committee's spokesmen, who were heard with attention, their understanding at the close being that the Cabinet would soon take up the question. On June 3 following a memorandum of the interview, with accompanying letter, was transmitted to the President, as follows:

NEW YORK, *June 3, 1910.*

The PRESIDENT: The undersigned beg leave to submit herewith a memorandum [1] of the remarks concerning the American passport in Russia made by the parties to the interview of Wednesday, May 25, 1910, which the President was good enough to grant. Since this interview there has been held a meeting of the executive committee of the American Jewish committee, the members of which are Jacob H. Schiff, Louis Marshall, Cyrus L. Sulzberger, Judah L. Magnes, and Samuel Dorf, of New York; Mayer Sulzberger and Cyrus Adler, of Philadelphia; Julian W. Mack and Julius Rosenwald, of Chicago; Isaac W. Bernheim, of Louisville, Ky.; Harry Cutler, of Providence, R. I.; Isador Sobel, of Erie, Pa.; and Jacob H. Hollander, of Baltimore, Md. As in duty bound, we presented a report of the interview and the executive committee unanimously approved the recommendations we had the honor to make, namely, that as a preliminary step our Government should insist upon the transfer of the negotiations from St. Petersburg to Washington, and that

[1] The memorandum is not printed, as it is a uniform practice not to publish conversations had with the President.

failure either in accomplishing this or in achieving desired results therefrom should be followed by denunciation of treaties. The committee strongly recommends that all this should be done promptly as a vindication of earnestness on a subject which found a place not only in the platform of the Republican party, but of all other parties that presented candidates to the American people at the last election. This fact indicates that the subject is one not only of interest to the particular class of citizens involved, but that all the citizens of the United States of every party affiliation are concerned as a matter of national honor in the full recognition of the American passport and resent the assumption of a right on the part of the embassy or consuls of any foreign power to make inquisition into the religious affiliations of American citizens and practice discriminations as a result of such inquisition.

It is the view of the committee, as indeed it has been maintained for many years by our Department of State, that this action is in violation of our treaties with Russia and of our own national policy, and that the reasons given by the Russian Government of "economic necessity" or "internal policy" are mere pretexts on the part of Russia for violating a treaty that it suits her better not to observe. We hold that our Government owes it to itself as a vindication of its reputation for intelligence to insist that as treaties are international agreements entered into by responsible parties, all considerations of economic values and internal policies are presumed to have been weighed by each party before the promulgation of the treaties, and that so soon as the treaties are promulgated unilateral action is barred and no change can be made either in the wording or meaning save by the consent of both parties. We believe that the time has arrived to demonstrate the position of the United States, not by war nor by threats or hints of war, but by the most solemn national protest—denunciation of treaties—should our righteous demands not be granted.

We also urge that a measure so vital to the United States should not be delayed or rejected because European nations may—possibly for reasons which affect their political relations with Russia—not wish to join us for the present. We believe, moreover, that it would be more in accordance with American policy that our Government should proceed upon its own initiative and upon the basis of its own treaties without seeking either the concurrence or assistance of European powers. If our Government after pursuing a proper policy should still fail to induce Russia to take the right and just course, it would have the glorious record of high moral endeavor. There are reasons, however, which warrant the conclusion that so soon as Russia realizes that our Government is in earnest not only in registering its views, but in following them up by successive steps, and that its efforts are not merely for popular consumption, Russia's attitude will change. We believe that the removal of the negotiations to Washington would be the most important factor in hastening such a realization. That such removal is not without precedent we are well advised. But even it it were, the attempt to create the precedent would be all the more important and all the more likely to produce a favorable issue to the negotiations. In the modern world, wherein there is a growing international conscience, the demonstration of national injustice or national bad faith is a powerful lever. Even Russia needs the support of a world opinion and in some measures realizes the fact.

We stand prepared, should the President wish it, to demonstrate that we are presenting to the President views which have been held by our Government and from time to time presented to the Russian Government, without avail, for a period of 40 years; that we are making no new proposal, but pointing out as we believe the way which may prove effective for our Government to secure a successful result to negotiations which have hitherto failed. Deeply as we deplore the inhuman conduct of the Russian Government toward the Jews living in that Empire, and believing fully as we do that in view of the enforced migration to America resulting from this policy, our Government would be justified in protesting to Russia in its own behalf and in behalf of humanity, we nevertheless and with great effort suppress our natural sentiments upon this point and confine ourselves solely to urging upon the President the securing of rights accorded us under our Constitution and laws and by the treaties which our own country has entered into. We urge that in the negotiations, which we hope will shortly be transferred to Washington, our Government confine itself to securing all rights accorded to its citizens under its treaties with Russia and that it hold the Russian Government to the same points of discussion, thus avoiding any claim that the internal policy of another Government is involved.

We have the honor to be, Mr. President,

Your most obedient servants,

MAYER SULZBERGER.
JACOB H. SCHIFF.
CYRUS ADLER.

Mr. Rockhill returned to his post, and though repeated interviews were had with the President by various members of the American Jewish committee, no communication was received indicating that the administration had taken any of the action suggested in the letters of the committee and in the conferences had with President Taft. The committee waited patiently for favorable action until it reluctantly reached the conclusion that the only hope lay in an appeal to the people of the United States.

Following this determination, Mr. Louis Marshall, a member of the executive committee of the American Jewish committee, upon the invitation of the Union of American Hebrew Congregations at its twenty-second council, on January 19, 1911, delivered an address on "Russia and the American Passport." (See Appendix II.) Immediately after its delivery the following resolution was unanimously adopted by the Council of the Union of American Hebrew Congregations, and was presented to President Taft on January 27, 1911, by Bernhard Bettmann, of Cincinnati:

"For more than a generation passports issued by our Government to American citizens have been openly and continually disregarded and discredited by Russia in violation of its treaty obligations and the usage of civilized nations.

"During all that time administration after administration, irrespective of party, has protested against this insult and humiliation, and Congress has on repeated occasions given emphatic expression to its resentment of the stain imposed upon our national honor. Diplomacy has exhausted itself in ineffectual effort to bring relief, for which a new generation is impatiently waiting.

"The citizenship of every American who loves his country has in consequence been subjected to degradation, and it has become a matter of such serious import to the people of the United States, as an entirety, that this condition can no longer be tolerated: Be it therefore

"*Resolved*, That it is the sense of this council, speaking not as a representative of Jews, but as a body of citizens having at heart the preservation of the honor of the Nation, joining in generous emulation with all other citizens to elevate its moral and political standards and to stimulate an abiding consciousness of its ideal mission among the nations of the earth, that the President of the United States, the Department of State, and Congress be respectfully and earnestly urged to take immediate measures, in conformity with the express terms of the treaties now existing between the United States and Russia, and in accordance with the law of nations, to terminate such treaties, to the end that if treaty relations are to exist between the two nations it shall be upon such conditions and guaranties only as shall be consonant with the dignity of the American people."

In the meantime Mr. Herbert Parsons, a Member of Congress from New York City, actuated by a patriotic and high-minded interest in the importance of the subject as affecting the integrity of American citizenship, had given it serious and earnest consideration and had used all of his powers to induce the President to adopt the views suggested by the American Jewish committee and embodied in the resolution of the Union of American Hebrew Congregations. Having failed to carry his point, on February 10, 1911, he introduced in the House of Representatives the following resolution:

"IN THE HOUSE OF REPRESENTATIVES,
"*February 10, 1911.*

"Mr. Parsons introduced the following joint resolution, which was referred to the Committee on Foreign Affairs and ordered to be printed:

"Joint resolution providing for the termination of the treaty between the United States of America and Russia concluded at St. Petersburg, December 18, 1832.

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That it is, and always has been, a fundamental principle of this Government that the rights of its citizens shall not be impaired at home or abroad because of religious belief; that this Government concludes its treaties for the equal protection of all classes of its citizens, without regard to religious belief; that this Government will not negotiate nor be a party to any treaty which discriminates, or which by one of the parties thereto is construed to discriminate, between American citizens on the ground of religious belief; that the Government of Russia has violated the treaty between the United States of America and Russia concluded at St. Petersburg, December 18, 1832, by construing that part of Article I thereto which says that the inhabitants of the respective States 'shall be at liberty to sojourn and reside in all parts whatsoever of said territories in order to attend to their affairs, and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce,' to mean that American citizens of Jewish faith are subject in Russia to the same class restrictions that Russia imposes upon Russian inhabitants of Jewish faith, by declining to

permit American citizens of Jewish faith to sojourn and reside in Russia in order to attend to their affairs and to enjoy to that effect the same security and protection as non-Jewish native Russians, and by refusing to honor American passports issued to American citizens of Jewish faith; that in the judgment of the Congress the said treaty, for the reasons aforesaid, ought to be terminated at the earliest possible time and be no longer in force; and that to this end the President be, and he hereby is, directed to give notice to the Government of Russia that the treaty aforesaid will terminate and be of no force and effect upon the expiration of the year which shall commence after the date of such notification."

Thereupon the President invited the following gentlemen to a luncheon and conference at the White House on February 15, 1911: Judge Mayer Sulzberger, Jacob H. Schiff, and Louis Marshall, representing the American Jewish committee; J. Walter Freiberg, Bernhard Bettmann, and Simon Wolf, representing the Union of American Hebrew Congregations; and Adolf Kraus, Philip Stein, and Jacob Furth, representing the Independent Order B'nai B'rith. Judge Sulzberger was prevented from attending by reason of indisposition. The conferees presented anew the arguments in support of the contention that the treaty of 1832 be abrogated, dealing as fully as practicable with the issues involved. Hitherto there has been no result.

On February 16 and 22, 1911, hearings took place before the House Committee on Foreign Affairs on the Parsons resolution, at which Representatives Parsons, Harrison, and Graham and Mr. Louis Marshall made earnest pleas for the abrogation of the treaty of 1832, and Representative Goldfogle recounted his previous activities. (See Appendix III.)

On February 26 Senator Culberson of Texas introduced a resolution providing for the abrogation of the treaty in the following terms:

"*Resolved*, That it is the sense of the Senate that the treaty of eighteen hundred and thirty-two between the United States and Russia should be abrogated because of the discrimination by Russia between American citizens in the administration of the treaty."

No action was taken by the House Committee on Foreign Affairs because of the lateness of the session, nor was consideration given to Senator Culberson's resolution. But upon the reassembling of Congress in extra session resolutions similar to the Parsons resolutions, providing for the termination of the treaty, were immediately introduced by Representatives William R. Calder, Francis Burton Harrison, Henry M. Goldfogle, and William Sulzer, of New York; Alfred G. Allen, of Ohio; and Joseph W. Byrns, of Tennessee; and in the Senate by Senator Culberson.

Mr. Sulzer's resolution is as follows:

"IN THE HOUSE OF REPRESENTATIVES,
"*April 6, 1911.*

"Mr. Sulzer introduced the following joint resolution, which was referred to the Committee on Foreign Affairs and ordered to be printed.

"Joint resolution providing for the termination of the treaty between the United States of America and Russia concluded at Saint Petersburg, December eighteenth, eighteen hundred and thirty-two.

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the people of the United States assert as a fundamental principle that the rights of its citizens shall not be impaired at home or abroad because of race or religion; that the Government of the United States concludes its treaties for the equal protection of all classes of its citizens, without regard to race or religion; that the Government of the United States will not be a party to any treaty which discriminates, or which by one of the parties thereto is so construed as to discriminate, between American citizens on the ground of race or religion; that the Government of Russia has violated the treaty between the United States and Russia concluded at Saint Petersburg, December eighteenth, eighteen hundred and thirty-two, refusing to honor American passports duly issued to American citizens on account of race and religion; that in the judgment of the Congress the said treaty, for the reasons aforesaid, ought to be terminated at the earliest possible time; and that to this end the President be, and he hereby is, directed to give the usual notice to the Government of Russia that the treaty aforesaid shall terminate and be of no force and effect upon the expiration of the year which shall commence after the date of such notification."

By reason of the fact that the extra session of Congress was called to consider a specific measure, no action on the resolutions to terminate the treaty could be had. But there is every reason to expect that Mr. Sulzer, who is chairman of the Committee on Foreign Affairs, and the other Representatives who have introduced resolutions, together with Senator Culberson, will energetically advocate the proposal to abrogate the treaty at the session of Congress which is to convene in December, 1911.

We have cited above the facts with respect to the negotiations carried on with Presidents Roosevelt and Taft. There is no evidence at this writing of any change in the situation. Citizens of the United States who under the Constitution are guaranteed all the rights and privileges of that Constitution are denied them by the acts of a power with which we are in friendly relations.

Under these circumstances the Jews of the United States are warranted in assuming that the only likelihood of a redress of their grievances is through an appeal to the intelligence, the patriotism, and the sense of justice of the American people to support the resolutions now pending in Congress, to the end that the rights which are theirs under the Constitution may no longer be denied them, and that the integrity of American citizenship may be maintained.

That Russia's attitude on the passport question and her flagrant violation of the treaty of 1832 are in line with a policy actuated by self-interest and guided by no considerations of the appreciation of the solemnity of treaty obligations is shown in her support of the Russia-American Line of steamships, which is part of the Russian volunteer fleet. Its agency in this country on March 16, 1911, issued a circular containing the following statement:

"PASSPORTS FOR RUSSIANS.

"The Imperial Russian consul has an office in our building at 27 Broadway, where frontier passports can be secured for 80 cents fee.

"The passenger must be in possession of his ordinary Wolostnoi passport, Mesczanski passport, or birth certificate, or any paper from a priest or rabbi, showing that the passenger is a Russian subject, stating his native city, and that he or she has been a member of their church or congregation."

This notice is an excellent specimen of Russian diplomacy. It appears to demand that the passenger referred to shall acknowledge himself to be a Russian subject. In point of fact he need do no such thing. In Mr. Bernstein's case above cited (and the instances can be multiplied), the consul had before him the fact that Mr. Bernstein was not a Russian subject, had never been one, and was then a citizen of the United States.

The real requirement was and is buying a ticket on Russia's steamboat line. Then the visé follows without demur.

The interest which this question has aroused is indicated by an address delivered by the Hon. Rufus B. Smith, president of the Bar Association of Cincinnati, at the Temple Club of Congregation B'nai Israel of that city on April 5, 1911 (see Appendix IV), as also by a series of articles in the New York Evening Mail, beginning on June 22 of this year. The State legislatures of Alabama, California, Colorado, Connecticut, Florida, Georgia, Illinois, Montana, Nevada, New York, Rhode Island, and Washington have also passed resolutions favoring the abrogation of the treaty.

Our diplomatic history is not without precedents that should serve as a guide in emergencies like the present. When in 1876 the Government of Great Britain attempted to restrict the application of the extradition provisions of the treaty of 1842 between the United States and that nation by seeking to control its interpretation by the provisions of an act of Parliament passed in 1870, President Grant and Secretary of State Hamilton Fish protested energetically. President Grant declared it to be intolerable that a purely domestic enactment of the British Parliament passed in 1870 could qualify or restrict the application of an international agreement entered into in 1842, and faithfully observed by both parties to it without dissent for almost a generation.

When long-continued and patient remonstrance had no effect, President Grant on June 20, 1876, sent a special message to Congress in which he recited the facts at issue and added that pending Great Britain's refusal to execute the existing treaty, he would not take any action without an expression of the wish of Congress that he should do so, either in making or granting requisitions for the surrender of fugitive criminals under that treaty. He further asked Congress, in its wisdom, to determine whether the particular article in question should be any longer regarded as obligatory on the United States or as forming part of the supreme law of the land. This was equivalent to a notice to Great Britain that unless Congress directed otherwise, President Grant would suspend the operation of the extradition clause of the treaty of 1842 because of the violation of its terms by the Government of Great Britain.

The unqualified stand taken by President Grant that one of the parties to a treaty could not change or alter its terms or construction or attach new conditions to all execution without the assent of the other, resulted in the withdrawal by Great Britain of her contention, and on December 23, 1876, President Grant was able to announce to Congress that Great Britain was prepared to observe the extradition clause of the treaty in accordance with the interpretation put upon it by the United States.

In this case the question at issue affected merely the extradition of fugitive criminals, yet President Grant deemed it of sufficient importance practically to suspend the operation of a clause of a treaty when he considered that its terms had been violated. The question at issue between the United States and Russia involves, not a mere matter of the extradition of criminals, but a fundamental right of American citizenship. In the two case involving, on the one hand, the extradition provisions of the treaty of 1842 with Great Britain and, on the other hand, the travel and sojourn provisions of the treaty of 1832 with Russia, the points at issue are almost precisely similar. Great Britain, after observing the treaty for nearly 30 years, attempted, by an act of municipal legislation, to limit or change the rights which were conceded to the United States by treaty; Russia, after a similar period of faithful observance of the treaty of 1832, has for a generation persistently violated the letter and spirit of the treaty on a like pretext. We have seen what action President Grant took in 1876. In 1911 the treaty with Russia is still permitted to remain in force.

It is apparent that relief must be sought otherwise than through diplomatic channels Congress possesses plenary, if not exclusive power, to act in the premises, and to it American citizenship must appeal for the protection and preservation of its rights.

To use the language of the Declaration of Independence: "We have petitioned for redress. * * * Our repeated petitions have been answered only by repeated injury." Satisfied that the righteousness of our cause will appeal to it, we submit these "facts * * * to a candid world."

APPENDIX 1.

[Translation.]

Consular treaty between the German Empire and Russia of December 8 (November 28), 1874.

(Reichsgesetzblatt, 1875, p. 145.)

Treaty of commerce and navigation between Germany and Russia of February 10 (January 29), 1894, including such part of the final protocol of February 9, 1897, relating thereto as modified by the additional treaty and protocol of July 28 (15), 1904.

(Main treaty, Reichsgetzblatt, 1894, p. 153. Final protocol, Deutscher Reichsanzeiger, February 10, 1897. Additional treaty, Reichsgesetzblatt, 1905, p. 35.)

TREATY.

ARTICLE 1. The subjects of the two contracting parties who have established themselves, or who temporarily sojourn in the territory of the other, shall, in the pursuit of commerce or trade, enjoy the same rights as, and be subject to no higher or other taxes than, the inhabitants of the respective countries. The subjects of each party shall reciprocally enjoy in the territory of the other the same rights, privileges, liberties, benefits, and immunities as the subjects of the most favored nation.

It is mutually understood, however, that the above agreement shall not in any way interfere with the special laws, decrees, and ordinances with respect to commerce, trade, and police which are in force or may be enacted in the country of either of the contracting parties and are equally applicable to all foreigners.

ART. 12. Merchants, manufacturers, and other traders who show by the possession of trade credentials (Gewerbelegitimationskarte) issued by the authorities of their country that they are authorized to engage in trade in the state in which they reside shall have the right, personally or through travelers in their service, to make purchases or to solicit orders and also to bring in samples in the territory of the other contracting party. The said merchants, manufacturers, and other traders or commercial travelers shall reciprocally, with respect to passports and the taxes levied for carrying on commerce, be accorded the same treatment as the subjects of the most favored nation.

FINAL PROTOCOL, PART I, TO THE TEXT OF THE TREATY.

To arts. 1 and 12: In regard to passports, the subjects of both parties shall be treated as those of the most favored nation.

The term during which the visé of a passport shall be valid is fixed in Russia at a period of six months.

This provision applies also to the passport visés of German commercial travelers of the Hebrew faith.

The date of the crossing of the boundary shall in the future be noted by the Russian and the German authorities on the licenses (scheine) according to the Russian as well as the German calendar.

The licenses (scheine) shall also in the future, as at present, be issued as well to Israelites as to Christians.

To art. 12. In the issuance of licenses to trade and in the amount of the tax therefor no distinction shall be made between persons of the Christian religion and those of the Hebrew religion.

[Translation.]

Treaty of Commerce and Navigation between Austria-Hungary and Russia, of February 2 (15), 1906. In force since February 16 (March 1), 1906.

(Treaty, Reichsgesetzblatt, 1906, No. 49, pp. 493–494, 520.)

ART. 12. Merchants, manufacturers, and other traders of either of the contracting parties who show, by producing trade credentials (Gewerbelegitimationskarte) issued by the proper authorities of the home country that they are authorized to engage there in commerce and industry and that they pay there all lawful taxes and imposts, shall have the right, either personally or through travelers in their service, to make purchases or to solicit orders in the territory of the other contracting party.

In order to enjoy in Russia the right provided for in the first paragraph of this article, the said merchants, manufacturers, and other traders must be provided with special trade licenses, for which the fee levied for the benefit of the state shall not exceed 150 rubles for a whole year or 75 rubles for the second half of the year.

Their commercial travelers must each be provided, in addition, with a personal trade license, for which the fee, levied for the benefit of the state, shall not exceed 50 rubles for a whole year or 25 rubles for the second half of the year. The licenses provided for in the second paragraph of this article may be issued in the names of the persons who actually repair to Russia, in which case these persons shall not be required to provide themselves with additional personal licenses.

As regards the issue of the licenses and the amount of the fee therefor, no distinction shall be made on account of the religious affiliations of the merchants, manufacturers, traders, or commercial travelers. Also, with respect to the term during which the visa of the passports shall be valid, which is fixed for Russia at a period of six months, the religion of the parties in interest makes no difference.

The trade credentials (Gewerbelegitimationskarte) shall be drawn up in accordance with a form agreed upon between the two high contracting parties.

The two contracting parties shall reciprocally make known to each other who are the authorities competent to issue trade credentials (Gewerbelegitimationskarte), and the rules and regulations governing the business of the bearers of such credentials.

(Eight additional paragraphs to this article.)

FINAL PROTOCOL.

To articles 1 and 12: In regard to passports, the subjects of the contracting parties, except as regards visas of passports, shall be treated as those of the most favored nation.

The term during which the visa of a passport shall be valid is fixed in Russia at a period of six months.

This stipulation applies also to the passport visas of Austrian and Hungarian commercial travelers of the Hebrew faith.

Licenses shall also be issued in the future, as at present, to Israelities as well as to Christians.

[Translation.]

Treaty of commerce and navigation between France and Russia of March 20 (April 1), 1874, with modifications by the commercial convention of September 16 (29), 1905.

(Ratifications exchanged Feb. 7 (20), 1906.)

(Treaty, British and Foreign State Papers, vol. 65, p. 225 et seq. Commercial convention, Official Journal de la Republique Francaise, Feb. 25, 1906, p. 1273 et seq.; also in Archives Diplomatiques, 1906, Vol. II, Nos. 4 and 5, p. 256.)

ART. 4. Merchants, manufacturers, and other traders of either of the two countries who show, by the production of trade credentials (cartes de legitimation industrielle), issued by the authorities of their country, that they are authorized to engage there in commerce or industry, and that they pay their all lawful taxes and imposts, shall have

the right personally, or through travelers in their service, to make purchases or to solicit orders in the territory of the other contracting party.

In order to enjoy in Russia the right provided for in the first paragraph of this article, the said merchants, manufacturers, and other traders must be provided with special licenses, for which the charge, collected for the benefit of the State, shall not exceed 150 rubles for a whole year and 75 rubles for the second half of the year.

Their commercial travelers must each be provided, in addition, with a personal license, for which the charge, collected for the benefit of the State, shall not exceed 50 rubles for a whole year or 25 rubles for the second half of the year. The licenses provided for in the second paragraph of this article may be issued in the names of the persons who actually repair to Russia, in which case these persons shall not be required to provide themselves with additional personal licenses.

In the issue of licenses and the amount of the tax therefor no distinction shall be made by reason of the religious affiliation of the said merchants, manufacturers, traders, or commercial travelers. Also, there shall be no distinction made by reason of the religion of the parties in interest respecting the term for which the visa of the passports shall be valid, which is fixed at a period of six months in Russia.

The trade credentials (cartes de legitimation industrielle) shall be drawn up in accordance with a form agreed upon between the two high contracting parties.

The two contracting parties shall reciprocally make known to each other who are the competent authorities to issue trade credentials (cartes de legitimation industrielle) and the rules and regulations governing the business of the bearers of such credentials.

(Eight other paragraphs to this article.)

Translation and summary of a debate in the French Chamber of Deputies, December 27, 1909.

[Journal Officiel, Dec. 28, 1909.]

The PRESIDENT. M. Hippolyte Laroche has the floor to speak upon his interpellation respecting the enforcement of the treaties of March 20 (April 1), 1874, and 16 (19) September, 1905, with Russia.

M. HIPPOLYTE LAROCHE. Gentlemen, on two occasions the Russian Government has made treaties of commerce with France, the fundamental intent of which it has later totally declined to regard. I refer to that which invests our citizens with the right freely to enter Russia. In the presence of the minister of foreign affairs I shall call the attention of the chamber to the disregard of obligations involving acts which this chamber has approved—a disregard in consequence of which the interests and rights of numerous French travelers are sacrificed by an interpretation unacceptable to us.

The matter is simple and does not require extensive explanation.

In 1874 a treaty was contracted between Russia and us, 8 or 10 lines of which I will read you:

"ARTICLE I. The French in Russia and Russians in France may respectively, upon conforming to the laws of the country, have the liberty to enter, travel, and sojourn in all parts of the territory and possessions of the respective parties in order to attend to their affairs. * * *

"The preceding provisions do not in any particular nulify the laws, ordinances, and special regulations respecting commerce, industry, and police in each of the two countries, and generally applicable to all foreigners."

These provisions do not permit any equivocation; they concern and embrace all the citizens of the two States, and do not permit of any distinction to the detriment of any class of citizens. Not one word permits France to exclude from their benefits any subjects of the Czar, and she has never dreamed of it. Not one word permits the Russian Government to exclude from the benefit of these provisions any of our inhabitants if they are French citizens and their citizenship is not contested.

Nevertheless, the treaty once concluded, the Russian Government draws a distinction between different classes of the French people to whom it undertakes to close its frontiers, namely, members of the clergy, freethinkers, and Jews. They are not more inclusive.

These infringements of the common rights created by the treaty have not failed to occasion much uneasiness. Also, France took advantage in the negotiation of a new agreement in 1905 to account to the Government of the Czar the ill effect of the restrictions put upon the admission of our citizens visiting Russian territory. Our friendly representations were received in good part at St. Petersburg; and we cherished the illusion of believing that we had obtained what we had wished for. No attempt was made to modify the terms of the treaty of 1874; * * * But the intention to break with the practices of the past was manifested anew in the drawing up of article 4 of the new convention. Up to that time the tax imposed on travelers in

Russia was triple for the Jews and duration of their sojourn in Russian territory was reduced by half. Article 4 of the convention of 1905 abolished this inequality and formulated a definite rule: "No distinction shall be made, whatever be the religion."

The promise to let all travelers sojourn an equal length of time, implied of course, that of allowing them first to enter Russia; and far from seeing a snare in this article 4, far from recognizing a greater deception, it was not imagined that Russia, in denying the duration of the validity of a passport, reserved the right to do worse, to repulse the bearer and not even to let him enter her territory.

The intent, which we must attribute to the adoption of the new act, was emphasized with striking force on the 14th of December, 1905, from the same tribune from which I now have the honor to speak. The chamber discussed its ratification; the president of the customs' commissions, at that time our former colleague, M. Noël, now senator, gave utterance to these words reported in the Journal Officiel, and I beg you to impress them on your minds:

"We have gained the point that no account will be taken of religion; and we have declared that France will never put her signature at the bottom of a treaty which makes any difference of treatment among her travelers."

M. Noël, as well as my friend, M. Lauraine, whom I call upon as witness, had just taken part at St. Petersburg as delegate from the ministry of commerce in the drawing up of the new treaty, article by article. From the mouth of the Russian negotiators he had received adherence to the French idea. He believed their word and communicated it with a confidence that received currency. And the chamber approved, convinced that every misunderstanding had ceased between the Republic and her ally.

It amounted to nothing. The misunderstanding has not ceased. The difference of treatment, proclaimed by M. Noël thenceforth impossible, the Government of the Czar persists in making. In spite of the text which prohibits it, it has done so publicly, officially, systematically, in daily practice, in a manner prejudicial and vexatious to the Jews, the freethinkers, and the French priests. It refuses to receive them in Russia unless by virtue of authority, exceptionally accorded as a favor, often at the personal intercession of our ambassador or our minister of foreign affairs. We make acknowledgement to the minister in such cases, for his obliging intercession; but it must be understood that we are not satisfied with obtaining as a precarious favor what we demand by right * * *.

Moreover, how many travelers are in position to resort to the minister himself and to his good offices? Most of the time an introduction is lacking, sufficient to reach him. An intermediary is not at hand to plead their cause, if they live far from Paris; and their sole recourse is to proceed regularly; that is to say, in the following manner:

The formality of passports, suppressed almost everywhere, exists and is of great importance in Russia. A Frenchman, desiring to visit Russia, requests a passport at the prefecture of his Department. Until last year, it was given to him for what it was worth, without any inquisition being made into his religion; but for some months past the Russian police has obtained from our prefects a strange cooperation; our prefects themselves inquire as to the religion of the applicant and affix upon the passport of the freethinker or the Jew the damaging statement which subjects him to the ill will of the imperial authorities. * * *

The Russian consuls often demand a baptismal certificate.

M. Francis de Pressensé. You know that there are two circulars, one of the 22d December, 1908, the other of the 26th April, 1909, which precisely fixes what you now complain of. * * *

This is not merely the act of the prefects. It is the act of M. Clemenceau.

M. Hippolyte Laroche. This is not the spontaneous act of the prefects. I disavow their responsibility; they obey the orders of their chief.

Perhaps it is appropriate to recall that formerly when the quinquennial census of our population was taken, the religious affiliation of each head of a family was inquired into. This information was only sought for purely statistical purposes and never served as a pretext for inquisitorial investigations into personal beliefs. Later, this was given up and does not appear in the enumerations of the last quarter of a century. How can you reconcile this scrupulous care, this precedent with the instructions ordering that the religious affiliation of the bearer shall appear upon the passports which the prefects issue when it is placed there not for any statistical interest, but in this instance to serve only religious intolerance, or at least with the known purpose of subjecting our fellow citizens to religious intolerance in the East.

As Russia does not keep her engagements, we do not refer to it, capitulate and bow with easy resignation. The instructions of the president of the council of the 22d December, 1908, and 26th April last, charge the prefects to inform the interested parties that they can not count upon the guarantees written in the treaties. Are you a freethinker? Then the Russian consuls "may refuse their visé to the passport borne

by one who does not belong to any positive religion." These are the terms of the circular of the 26th April, 1909. * * *

Are you a Jew? If so, you will not be admitted, "unless exceptionally to enter Russia;" and if you are admitted, the duration of the validity of your French passport, which is six months for Christians, will be for you "for only three months." What becomes of article 4 of the convention of 1905? Above all, if the prefects omit to take note of the religion "this statement is essential." I extract these citations from the circular of 22 December, 1908. * * *

I can not refrain from noting the contrast between the attitude of the French Government and that of the small States, which have not deemed it expedient to lend themselves to illegal requirements. A Jewish merchant of my acquaintance, knowing to what he was exposed by the mention of his religious faith, upon his passport, if he undertook to go to Moscow, and passing through the Kingdom of Bavaria, asked of the Bavarian Government if a passport to Russia would be delivered to him at Munich without mentioning this fact. Here follows the reply within eight days, which was sent to him by the minister of state: "The minister of state and of foreign affairs has decided that the religion of the holders of passports destined for Russia need not be indicated by the Bavarian authorities. I so advise you in reply to your inquiry of the 23d of July."

Without doubt, Russia is free to govern her native Jews and freethinkers by exceptional laws; she is free to pen them within certain defined territories, to prevent them from entering numerous professions, from becoming landowners, to prevent four-fifths of their children having access to schools, etc. When she legalizes these acts, they are of interest only to Russian subjects within the Empire; we have not the right right to object, and we keep our opinion to ourselves. Russia can equally impose upon strangers enjoying her hospitality many a disagreeable obligation, such as presenting oneself on certain days at the police office and of paying enormous taxes, either for remaining in the city, or for going from one city to another, etc. Russia, in one word, may prescribe a thousand measures that please her and apply them to French travelers providing these measures are equally applicable to all strangers.

But the treaties of 1874 and 1905 do not permit that the length of residence of certain of our fellow citizens be reduced nor allow her to prohibit them entrance under the pretext that their religious faith is not that of the Russian people, or that the French point of view, so far as concerns these points, is unpleasing in the eyes of the Government of the Czar. If one admits that Russia, in the execution of the treaties of 1874 and 1905, is free to make differences between Frenchmen on account of creed, it would be necessary also to admit that she is free to differentiate among them on account of their political opinions and to close her doors to members of one party, the Republican party, for example, whose attitude of mind seems to be far removed from the Russian.

In times gone by, without doubt, before the days of treaties, the Russian Government had full power to act in this way and to consult her own convenience, but since it has a treaty with us it is bound by its engagements. Now, the first article of the treaty of 1874 is absolute. All Frenchmen may enter Russia on condition, well understood, on conforming to the laws of the country. It is self-evident that they can not conform to the laws of the country before they enter. Consequently, they must first enter, since the treaty of 1874 gives full right, when it says, "the French may enter Russia and attend to their affairs there with full liberty." The phrase is clear and if it does not mean what it says we will have to give up trying to understand the language of Voltaire, famous for its clearness. * * *

Putting aside all possible quibbles, this remains above all contradiction: That the Parliament, when these treaties were submitted for consideration, read them with candor, without seeking for a secret cryptograph, without discovering it in them, without even suspecting in them any hidden sense contrary to its plain and evident intent. It is incontrovertible that when the act of 1905 was approved, after having heard M. Noel, just returned from Russia, making the declaration which you remember the chamber believed that every distinction on account of religion had been abandoned by Russia in the reception to be accorded our travelers. * * *

Why did we not open negotiations with Russia for the purpose of fixing the interpretation of the fundamental provision of our treaties of commerce?

In fact, while Russia has preserved for herself reactionary laws, she sees rising about her borders the flood of more modern ideas and she has not failed at times to support them among neighboring nations. Did she not at the same time as France sign the great treaty of Berlin on July 13, 1878, recognizing and establishing the independence of Roumania? Did not the Russian plenipotentiaries collaborate in drawing up article 44 of that treaty, which is as follows: "The citizens of all powers, merchants or others, shall be treated in Roumania without distinction as to religion, upon a footing of perfect equality?"

When we suggest to Russia to apply in the treatment of French travelers the principles and the maxims which she has had the wisdom to recognize, and helped to impose on others, she will have difficulty in saying no to us.

The United States is carrying on negotiations to the same end. In his first message Mr. Taft announced that the matter would engage his attention. (After quoting the resolution adopted by Congress in March, 1909, M. Laroche proceeded.)

Gentlemen, from two sides of the Atlantic the identical demand is made. It is the voice of the twentieth century speaking. * * * The United States will not be content with partial and incomplete concessions. They persist in demanding all or nothing. The time is ripe for us to give standing to our own. It will be a pity to let another power take from us the lead in the crusade for the triumph of the great ideas of humanity so ably defended by France in the past. (After an account of the negotiations with certain Cantons of Switzerland which put restrictions upon the right of foreign Jews to enter such Cantons and the successful efforts of the French Government to have the rights of French citizens irrespective of religion recognized in Switzerland, he continued.)

It is under these conditions that the Franco-Swiss Convention of June 30, 1864, was concluded, fixing thenceforth that all Frenchmen would be put upon the same footing and treated in equal manner throughout the 22 Cantons. The federation has honored its signature and has executed with fidelity for 45 years all clauses of the treaty which she subscribed.

The Government of the Czar, signatory of the treaties conceived by us in the same spirit and containing similar clauses, evades them by excluding from their benefits French Jews, priests, and freethinkers. * * *

I hope that the Government of the Republic will know how to effect with the Russian ministers the half of what Napoleon III accomplished with the Swiss Federation, and that she will impose on our ally no new engagements, but the simple execution of those which it seemed to renew or make four years ago and which were the sine qua non of the ratification of the last treaty by the chambers.

The minister of foreign affairs, in his reply, quoted the treaty of April 1, 1874, which is in effect the same as Article 1 of the treaty between the United States and Russia of December 18, 1832. And he quoted in support of the ministerial interpretation of the meaning of the treaty the opinion of M. Louis Renault to the effect that the treaty, by its clause rendering travelers subject to the prevailing laws and ordinances of Russia, in a large measure gave Russia the right to determine who shall cross her borders. If police regulations take account of the religion of individuals, the French must submit, and can not expect their own laws, which do not take account of religion, to prevail and to determine the rights of citizens traveling in Russia. This is an internal matter and the treaty only provides against any differential treatment among foreigners. The treaty of 1905 does not contain any clause to the effect that the passports must be viséed no matter what the religion of the applicant. The minister of foreign affairs added that it had only been since his attention had been called to the matter by M. Laroche that he had taken up this question, since he had never had any complaint on the subject; that he understood that commercial travelers had freely received passports to enter Russia. He had had an investigation made at the Chamber of Commerce in Paris and elsewhere and there was no complaint by commercial travelers there or at the ministry of foreign affairs on the subject. To this M. Laroche replied that the complaints had been addressed to the president of the Council of the League of the Rights of Man. The minister of foreign affairs defended the circular referred to by M. Laroche on the ground that it prevented delay in procuring visés of passports by Russian consular authorities. Since whenever the information desired by the Russian authorities was not provided, inquiries are made which delay delivery of the passport. The circulars mentioned were issued in order to avoid these inconveniences. As for the demand that France take steps to have the Russian Government admit all Frenchmen without exception, the minister of foreign affairs said he would accept this, but he feared that he would be on poor ground if he had to undertake to discuss an interpretation of the clause of the treaty with the Russian Government. Because whatever were the declarations made from the platform during the discussion of the treaty of 1905, the text of the treaty shows the French Government was not in a good position to obtain the satisfaction which was so legitimately demanded. He did not admit the right to demand that the religion of the applicant should appear on the passport, but it was simply a matter for finding a practical means to allow French citizens to enter Russia with as little difficulty as possible. As for the action of the Bavarian Government, it had effected nothing. France had a right to decline to state on the passport the religion of the holder, but inconveniences, delays, and inquiries would result, and it was to avoid these difficulties that it was preferred to answer all questions. France replied as did Bavaria, but we refer to

what the United States has done, and Russia's reply, "What about your laws respecting Chinese immigration?" * * * To these M. Laroche replied that the United States had no treaty with China. The minister of foreign affairs admitted the cases were not similar, but he added that all countries could, by police regulations, control the entry of certain foreigners. To which Mr. Lacrohe answered provided there were not treaties that prevented it. The minister of foreign affairs stated that the United States had received no satisfaction from the Russian Government, but that he was ready to undertake to take steps with the Russian Government to have the matter in dispute remedied. Further, he would willingly undertake these steps at the same time as the Government of the United States to relieve the situation complained of. * * *

M. Francis de Pressensé, in speaking to the question, disputed the interpretation which M. Louis Renault put upon the terms of the treaties of 1874 and 1905 and held that there was ample authority for the view that the treaties do not permit of any distinction being drawn by Russia between the citizens of France who have entered Russian territory. * * * He demanded that France take immediate steps to do everything possible at St. Petersburg that the differential treatment be not maintained, and that the obnoxious French circulars of December, 1908, and April, 1909, which put France in the position of being a party in a measure to the differential treatment imposed by Russia, be withdrawn. He drew attention to the fact that this was not the first time that a question of this kind was considered by the French Parliament. It was up frequently under the July monarchy, when Switzerland and Saxony were involved in the controversy, and France, in 1835, through the Duke de Broglie, adopted a very strong attitude. King Louis Phillipe himself, in an audience which he granted to M. Crémieux, president of the Central Consistory of the Jews, declared that it was not only the interest but the duty of France to obtain respect for the fundamental principles of her constitution. At that time the question concerned an analogous occurrence which had happened in Switzerland, and M. Carnot, son of the great Carnot and father of the President of the Republic, expounded clearly the principles which should control. M. Beaumont, the friend of de Tocqueville, took part in the discussion, and M. Crémieux expounded the law which has application in the present instance. France had stipulated that French citizens should receive the same treatment in Switzerland as Swiss citizens. Switzerland had replied, "You do receive the same treatment as Swiss citizens, but there are Swiss citizens and Swiss Jews. The French Jews receive the same treatment as Swiss Jews." M. Guizot, the minister of foreign affairs, had declared that he regretted this interpretation, but he could not contest it. M. Crémieux, on the other hand, demonstrated by strong arguments that France demanded of Switzerland that all French citizens, without regard to religion, creed, or opinion, should enjoy the same rights as Swiss citizens; that Switzerland might have Jews who were debarred from the right of citizenship, but that she had no right on that account to deprive a single French citizen of the rights belonging to Swiss citizens. * * * He regretted that the Government had not undertaken negotiations if these were necessary to obtain the change in the treaty of 1905. He particularly regretted it, not because it was a question of inconvenience which might be caused to a Frenchman who wished to enter Russian territory, but because it put France in the position of seeming to connive at the differential treatment of French citizens of one creed as against those of another. The reply that the question as to one's religion was asked of the applicant for the passport in order to prevent the prohibition of entry into Russia was not sufficient to prevent the Bavarian Government from insisting that it would not be a party to such a view and that it would not make such an inquisition. * * * He criticized severely the issuance of the circulars referred to above by the French Government. He drew attention t the fact that in 1815, just after the Congress of Vienna, Turkey had made a treaty with Austria by the terms of which Turkish subjects were to receive in Austria the same treatment as Austrian subjects. Austria undertook to treat Ottoman Jews differently from other Ottoman subjects because she treated her own Jews differently from her other subjects. The Sublime Porte protested that she could not permit of the slightest difference being made between any Turkish subjects no matter what their creed, and in September, 1815, M. de Metternich gave Turkey satisfaction, and thenceforward all Turkish subjects were treated alike.

He referred to the negotiations between the United States and Russia on the passport question, mentioned earlier in the debate, and that the immigration legislation of the United States had been made to serve the purpose of a tuquoque, but nevertheless the United States had not failed to demand that its point of view be upheld, and he recited various steps which the United States had taken.

In conclusion, he demanded that France return to the position adopted under the July Monarchy, and that she speak to Russia in the same language that the Duke de

Broglie adopted in 1835, and that not only the advantages said to be obtained by the United States be secured, but that France secure the same recognition from Russia that Turkey acquired from Austria under Metternich in 1815.

The minister for foreign affairs, in concluding the debate, stated that the circulars that had been referred to had been issued only to avoid the difficulties met with at the frontier on the part of French travelers who neglected to conform to the interpretation of the treaty which Russia put upon it; that as soon as his attention was drawn to the objections raised he had written to the minister of the interior that, owing to the delicacy of the question, Government officials should only advise applicants for passports that they would be subjected to inconvenience if they would not answer the question as to their religion, but to make the entry only with the consent of the applicant. He added that, much to his regret, France was not in a position to demand that French laws be applied in Russian territory, just as Russia is not in a position to demand that Russian laws be applied in French territory; since the treaty was in existence respecting the issuance of passports, and the convention of 1905 fixed the conditions under which the passports were to be viséed, the French Government had to conform to the provisions adopted by her when this treaty was agreed to. But he was prepared to renew negotiations with the Russian Government to procure an interpretation of the treaty which would give satisfaction.

At the conclusion of the debate the following was passed:

"The chamber, considering that Russia does not respect the provisions of the treaty of 1874 and of the convention of 1905 as equally applicable to the citizens of the two States, without regard to religion, and confident that the Government will undertake negotiations to establish the interpretation of these treaties, passes to the order of the day."

APPENDIX 2.

RUSSIA AND THE AMERICAN PASSPORT.[1]

The character of a nation is the reflex of the character of its citizens. If they are virtuous, virile, and self-respecting, the nation will of necessity possess the same qualities. If they have no pride in the honor and dignity of their citizenship, it inevitably follows that the national sense of honor is lacking, or falls below the ideal standard which should prevail. Whenever the citizens of a country as a mass fail to thrill in response to great achievements, or to resent a national insult, it must be due either to lack of information or to a want of that spirit by which great commonwealths have been created and preserved. Rome became a world power when, with conscious pride, its sons gloried in the declaration, "civis Romanus sum." It fell when the members of the State ceased to respond to that magic phrase.

American citizenship has hitherto been regarded as a priceless treasure. Men have gladly given for it their lives and all their material possessions. It has meant to them life, liberty, and the pursuit of happiness. It has been to them a badge of honor and distinction, and the richest guerdon of all their hopes and aspirations. It has peopled the wilderness and lighted the torch of progress and civilization. It has challenged universal respect, and has gained for itself the good will of well nigh all the peoples of the earth.

And yet there rests a stain on the honor of our Nation and on the integrity of American citizenship; for the passport issued by the State Department of the United States, bearing the great seal of our country, and which vouches for the citizenship of him to whom it is issued, is dishonored, rejected, and arbitrarily disregarded by the Russian Government whenever the citizen by whom it is presented happens to be a Jew. It matters not if he be able to trace his ancestry to those who landed with Columbus, to those who were among the settlers who came to New York in 1655, to those who fought in the War of Independence. It matters not that none of their kith or kin ever was a subject of Russia. All are denied the privilege of entering its domain, though panoplied with the armor and the shield of American citizenship.

For more than 30 years this has been the declared policy of the Russian Government. Its discrimination against our citizens has been persistently and constantly avowed and acted upon. Men of every class have suffered the same ignominy and contumely. No man within the hearing of my voice who professes to be a Jew, however eloquent in true Americanism his life has been, can venture within the walls which Russia has erected against the outside world, even though accredited by a passport from our Government, without having his credentials figuratively torn into shreds and cast defiantly into his face.

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[1] Address by Louis Marshall, Esq., before the 22d council of Union of American Hebrew congregations in New York, Jan. 19, 1911.

As a Jew he might look down upon his persecutors with pity and contempt, and suffer in silence as his ancestors did for centuries. But he is now more than a Jew—he is also an American citizen, and the hand that smites him inflicts a stain on his citizenship. It is not the Jew who is insulted; it is the American people. And the finding of a proper remedy against this degradation is not a Jewish, but an American question. The discussion of it has no proper part in the proceedings of this convention, except for the purpose of calling to the attention of the American people the facts which can not have been sufficiently impressed upon their minds, else they would have long since clamored for redress.

What has been apparently overlooked or at least has not been fully appreciated, is the prime consideration that, ever since 1832, Russia has been under treaty obligation to accord to all of our citizens, without distinction, the liberty to sojourn and reside in all parts of her territory and to guarantee to them security and protection. The first article of this treaty reads thus:

"There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

On the very face of this article are written the two important underlying theories of every treaty, that it evidences a contractual relation, a compact between the nations entering into it, and that the obligations and rights created by it are reciprocal. The two nations are spoken of as "the high contracting parties," the liberty of commerce and navigation is referred to as "reciprocal," and the inhabitants of the several States are "mutually" to have the liberties which are defined in unequivocal and unambiguous terms.

As was said by Mr. Justice Miller in the Head Money cases (112 U. S., 598):

"A treaty is primarily a compact between independent nations. It depends for the enforcement of its provisions on the interest and the honor of the Governments which are parties to it."

In its construction the same rules which govern other compacts properly apply. (United States *v.* Reynes, 9 How., 127.) There is no rule of interpretation applicable to treaties or to private contracts which would authorize either of the parties to make exceptions by construction, where the parties have not thought proper to make them. (Society for Propagation of Gospel *v.* New Haven, 8 Wheat., 464, 488, 489; Rhode Island *v.* Massachusetts, 12 Pet., 722.)

As indicative of the accepted rule of interpretation of treaties, the language of Mr. Justice Field in Geofroy *v.* Riggs (133 U. S., 271) is significant:

"It is a general principle of construction with respect to treaties that they shall be liberally construed, so as to carry out the apparent intention of the parties to secure equality and reciprocity between them. As they are contracts between independent nations, in their construction words are to be taken in their ordinary meaning, as understood in the public law of nations, and not in any artificial or special sense impressed upon them by local law, unless such restricted sense is clearly intended. And it has been held by this court that where a treaty admits of two constructions, one restrictive of rights that may be claimed under it and the other favorable to them, the latter is to be preferred."

There is no exception, express or implied, in the first or any other article of the treaty of 1832. Its terms are of universal application. They include, not some but all of the inhabitants of the high contracting parties. They give the liberty to sojourn and reside within the territories of the respective nations, not to some, but to all of their citizens. There is no distinction of race or color, creed or sex. No discrimination is contemplated or permitted. All Russians are to be admitted here. All Americans are to be admitted there.

If it were suggested by our Government that no Russian subject who is a resident of St. Petersburg or of Moscow, or a member of the Greek Catholic Church, should be accorded the rights and privileges secured by this treaty, we would be regarded as guilty of a gross violation of its letter and its spirit. If Russia should declare that no citizens of the United States residing west of the Mississippi or south of the Ohio should receive the benefits of this treaty, not only the South and West, but our entire country, would stand aghast at the dishonor inflicted on the entire Nation. If Russia should announce that it would not honor the passport of the United States when held by an Episcopalian or a Presbyterian, a Methodist, or a Roman Catholic, our country would

not look upon this breach of treaty obligation as a mere insult to the Episcopalians or the Presbyterians, the Methodists, or the Roman Catholics of this country, but would justly treat it as a blow inflicted upon every man who holds dear the title of American citizen.

Though this proposition is so plain that discussion and illustration are alike unnecessary, Russia has persisted in the practice of requiring its consuls within the jurisdiction of the United States to interrogate American citizens as to their race and religious faith, and upon ascertainment thereof to deny to Jews authentication of passports or legal documents for use in Russia.

The existence of this practice was denounced by President Cleveland in the very words which have just been used, in his annual message to Congress in 1895; yet in spite of this protest this practice has continued ever since, and not only Russian consuls, but Russian Ambassadors, have refused to visé passports after ascertaining, as a result of inquiry, that the bearer, though an American citizen, is also a Jew.

The Russian Government has thus broken its compact, flouted its obligations, and ignored a series of continued protests voiced by every President of the United States since the administration of President Hayes.

In the meantime the United States has sacredly observed the obligation of this treaty. Its highest court has, at the instance of the Russian Government, enforced it most drastically and under conditions when, by strict construction, Russia might well have been denied that which it demanded as of right, under the terms of this very treaty whose obligations it has thus deliberately disregarded. It will be instructive by way of contrast to consider the facts and the decision in Tucker *v.* Alexandroff (183 U. S., 424). Alexandroff was a conscript in the Russian naval service. He was assigned to the duties of an assistant physician. In 1899 he was detailed, with 53 others, to Philadelphia, to take possession of and man the cruiser *Variag*, then under construction by Cramp & Sons under a contract with the Russan Government. While the vessel was still under construction, and before its acceptance by the Russian Government, Alexandroff deserted, went to New York, where he renounced his allegiance to the Czar of Russia, and declared his intention to become a citizen of the United States. At the instance of the Russian vice consul, Alexandroff was arrested on the charge of desertion, in accordance with the terms of Article IX of the treaty of 1832. This provided that the consuls, vice consuls, and commercial agents of the two contracting parties "are authorized to require the assistance of the local authorities, for the search, arrest, detention, and imprisonment of the deserters from the ships of war and merchant vessels of their country. * * * Such deserters, when arrested, shall be placed at the disposal of the said consuls, vice consuls, or commercial agents, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be detained until the time when they shall be restored to the vessels to which they belonged, or sent back to their own country by a vessel of the same nation or any other vessel whatsoever."

It was contended on behalf of Alexandroff that when he arrived at Philadelphia the cruiser was not a ship, that at the time of his desertion she had not been accepted by the Russian Government, had neither equipment nor armament, had not received on board her crew, nor had she been commissioned for active service, and was not therefore a ship of war.

Notwithstanding the facts upon which stress was thus laid, the Supreme Court held that on a liberal interpretation of the treaty the *Variag* was a ship of war, and Alexandroff, having been detailed to her service, was, from the time she became a ship, a part of her crew. Alexandroff was therefore surrendered to the Russian Government, without a quibble, without an effort to do violence to the language of the treaty, without seeking to implant upon it exceptions which it did not contain, and in spite of the fact that on the strict interpretation that would have been given to a criminal or penal statute of our own country he would doubtless have been discharged.

The reason for this adjudication is to be found in the words of Mr. Justice Brown, which, when compared with the interpretation which Russia has given to the first articles of this same treaty, emphasizes the astonishment evoked in any well-constituted mind at the wanton disregard by Russia of the sanctity of its national honor. Says the distinguished jurist, in terms that reflect credit upon our jurisprudence:

"We think, then, that the rights of the parties must be determined by the treaty, but that this particular convention being operative upon both powers and intended for their mutual protection, should be interpreted in a spirit of uberrima fides, and in a manner to carry out its manifest purpose. (Taylor on International Law, sec. 383.) As treaties are solemn engagements entered into between independent nations for the common advancement of their interests and the interests of civilization, and as their main object is not only to avoid war and secure a lasting and perpetual peace, but to promote a friendly feeling between the people of the two countries, they should

be interpreted in that broad and liberal spirit which is calculated to make for the existence of a perpetual amity, so far as it can be done without the sacrifice of individual rights or those principles of personal liberty which lie at the foundation of our jurisprudence. It is said by Chancellor Kent in his "Commentaries" (Vol. I, p. 174): 'Treaties of every kind are to receive a fair and liberal interpretation according to the intention of the contracting parties, and are to be kept with the most scrupulous good faith. Their meaning is to be ascertained by the same rules of construction and course of reasoning which we apply to the interpretation of private contracts.'"

This decision was rendered just nine years ago, and one would have believed that, with such an exalted example of the faithful performance on the part of our Government and all of its departments of the behests of this treaty, Russia would have hearkened to the representations of our Government, demanding that it should recognize its reciprocal obligations and give full faith and credit to its own treaty obligations. It has, however, remained deaf to the oft-repeated and earnest expostulations which our Government has addressed to it. It has drawn the lines of discrimination more harshly. It has excluded great American merchants and manufacturers and builders from its territory. As a crowning insult, it has but recently issued a special edict offering to an American ambassador the privilege of entering its territory, "notwithstanding that he was one of the Jewish persuasion." By a special act of grace, an accredited representative of the Government of the United States was tendered absolution for the crime of being a Jew, a favor which this experienced diplomat happily declined to accept. From the standpoint of the Nation's honor, however, the refusal to admit even an ambassador of this country would have been no greater wrong than the refusal to honor the passport of the humblest of our citizens.

For more than thirty years this condition, described in many of our diplomatic dispatches to Russia as intolerable, has nevertheless been tolerated. Every four years, when the national conventions meet, planks have been placed in the platforms of the great parties, giving assurance of relief. On June 22, 1904, the Republican National Convention declared:

"We commend the vigorous efforts made by the administration to protect American citizens in foreign lands and pledge ourselves to insist upon the just and equal protection of all our citizens abroad. It is the unquestioned duty of the Government to procure for all our citizens, without distinction, the rights of travel and sojourn in friendly countries, and we declare ourselves in favor of all efforts tending to that end."

On July 8, 1904, the national convention of the Democratic Party declared:

"We pledge ourselves to insist upon the just and lawful protection of our citizens at home and abroad, and to use all proper measures to secure for them, whether native-born or naturalized, and without distinction of race or creed, the equal protection of our laws and the enjoyment of all rights and privileges open to them under the covenants of our treaties of friendship and commerce; and if under existing treaties the right of travel and sojourn is denied to American citizens, or recognition is withheld from American passports by any countries on the ground of race or creed, we favor the beginning of negotiations with the Governments of such countries to secure by treaties the removal of these unjust discriminations. We demand that all over the world a duly authenticated passport issued by the Government of the United States to an American citizen shall be proof of the fact that he is an American citizen, and shall entitle him to the treatment due him as such."

At the Republican National Convention held on June 19, 1908, there was a reiteration in exact words of the declaration contained in the platform of 1904, and in the platform adopted by the Democratic National Convention of July 9, 1908, there was a similar repetition of the pledge contained in its platform of four years before.

In his speech of acceptance, delivered at Cincinnati on July 28, 1908, Mr. Taft said:

"The position which our country has won under Republican administrations before the world should inure to the benefit of every one, even the humblest of those entitled to look to the American flag for protection, without regard to race, creed, or color, and whether he is a citizen of the United States or of one of our dependencies. In some countries with which we are on friendly terms, distinctions are made in respect to the treatment of our citizens traveling abroad, and having passports of our Executive, based on considerations that are repugnant to the principles of our Government and civilization. The Republican Party and Administration will continue to make every proper endeavor to secure the abolition of such distinctions which, in our eyes, are both needless and opprobrious."

In a speech delivered by Mr. Taft at Brooklyn on October 26, 1908, he said:

"It seems to me that we ought to give the traveling American citizen the broad significance that Roman citizens had in the days of Rome. Therefore, we should progress to the point where, no matter in what part of the world an American citizen may be found, his certificate of citizenship shall be all that is required to insure him

respect and good treatment. Nothing, if I am elected President, will give me greater pleasure than to devise ways and means to make the American passport respected the world over. Do not misunderstand me. What I am promising is, that every effort shall be made to this end."

In a speech delivered by Mr. Taft at the Thalia Theater, in this city, on October 28, 1908, he said:

"But that national prestige must be used, not only for the benefit of the world at large, but for the benefit of our own citizenship; and, therefore, as we gain in international prestige, we ought to assert our insistence that our passport, certifying our citizenship, should secure to every man, without regard to creed or race, the same treatment, the same equality of opportunity in every nation of the globe. Now, this is not a matter with respect to which promises of immediate accomplishment can be made, but of this you can be certain, that if you commend the administration of Theodore Roosevelt by electing a Republican administration to succeed his, that administration will continue to press that question until the certificate contained in an American passport shall have the effect that it ought to have."

In a letter addressed by Mr. Root, then Secretary of State, to Mr. Jacob H. Schiff on October 19, 1908, after giving the reasons for acting favorably upon the application for the reopening of the Pouren case, that great statesman said:

"The other matter relates to securing from the Russian Government equality of treatment for all American citizens who seek to enter Russia with passports, without regard to their creed or origin. Our Government has never varied in its insistence upon such treatment, and this administration has repeatedly brought the matter to the attention of the Russian Government and urged the making of a new treaty for the purpose of regulating the subject. We have but very recently received an unfavorable reply to this proposal, and we have now communicated to Russia an expression of the desire of this Government for the complete revision and amendment of the treaty of 1832, which provides for reciprocal rights of residence and travel on the part of the citizens of the two countries. We have expressed our views that such a course would be preferable to the complete termination of the treaty, subjecting both countries to the possibility of being left without any reciprocal rights whatever, owing to the delay in the making of a new treaty."

These authoritative expressions indicate, beyond peradventure, that the attitude of Russia toward the American passport is regarded, as it must be, exclusively an American question, one which concerns the Nation as an entirety.

During the past two years there has been an abundance of well-directed effort to induce Russia, by the ordinary diplomatic channels, to recognize the obligations of its contract. Congress has passed resolutions indicative of the same desire, and of a like recognition of the broad scope of the question at issue. Apparently we are to-day as far from a solution of this problem, which goes home to every American citizen, as we were 30 years ago.

The painfully slow methods of diplomacy have failed. We, a Nation of 100,000,000 Americans, stand at the door of Russia, hat in hand, pleading with it that it shall recognize and perform its contract. With sardonic smile Russia answers: "Not yet." A nation is but an individual written large. Imagine the patience of a creditor who for 30 years waits upon his debtor and pleads with him at his home for the payment of his debt. The average man would be tempted, under such circumstances, long before the lapse of 30 years, to take such proceedings as would reverse the process and lead his debtor not only to ask for leniency, but to make ample amends.

Does this mean that we should go to war with Russia? Certainly not. War is abhorrent to us. It is brutal, inhuman, cruel. Its horrors fall upon the innocent. Its effects are felt by the entire universe. The mission of America, as well as of Israel, is peace. But there is a simpler, an easier, and an equally effective method of dealing with a nation that insults another; the same method to which a self-respecting civilized man resorts when he is insulted. He does not shoot. He does not commit an assault. He merely ceases to have further relations with the individual who has disregarded the amenities of life. And so with nations. It is within the power of a country situated as ours is, to isolate Russia and to terminate all treaty relations with a Government which fails to recognize the solemnity and the sanctity of its treaty obligations, and that is exactly what should be done without further delay.

As long ago as on September 14, 1908, this very plan was advocated in an editorial which appeared in the Cincinnati Times-Star, in which it was said:

"The Republican Party is thus pledged to grant relief from the intolerable conditions which now prevail, which prove a constant source of irritation, which involve the infliction of a perpetual insult upon every self-respecting American citizen, which lead to a disregard of that comity which we have always extended to other nations, and which can not do otherwise than result in injurious discrimination against

our commerce and the impairment of our national dignity. What can be done to remedy these evils is a question which has been frequently asked. If Russia continues to avail herself of the benefits of the treaty of 1832, and of the extradition treaty between the two countries, it is a matter worth earnest consideration whether our Government should not denounce both of the existing treaties, as it has the right to do, because of Russia's disregard of the American passport. Conditions in Russia are such that she would hardly regard with indifference such action by a Government which is a world power. The time would seem at hand for insistence. American citizenship can no longer be held so cheap that it can at will be disregarded or ignored. The Republican Party has pledged itself to this principle, and it may be safely relied upon to redeem its promises."

Can the remedy thus indicated be pursued? There is nothing in the law of nations to prevent it. By the express terms of Article XII of the treaty of 1832 it is provided:

"The present treaty * * * shall continue in force until the 1st day of January in the year of our Lord 1839, and if one year before that day one of the high contracting parties shall not have announced to the other by an official notification its intention to arrest the operation thereof, this treaty shall remain obligatory one year beyond that day, and so on until the expiration of the year, which shall commence after the date of a similar notification."

In other words, the treaty is terminable on one year's notice. So long as this compact is treated by Russia as devoid of mutuality; so long as it denies to it the element of reciprocity, which is written all over it, we might as well be without a treaty as to be subjected to the constant humiliation, irritation, and exasperation attendant upon its continuous violation. This treaty has become both a farce and a tragedy. Let the note be sounded: "La comedia é finita."

There is another treaty between the United States and Russia—the extradition convention concluded March 23, 1887, and proclaimed June 5, 1893. Under this Russia has sought from time to time to extradite political offenders—Pouren and Rudowitz among others. All of the benefits of this treaty rest with Russia. It may well be doubted whether there has been any time when our country has had occasion to avail itself of its terms. This treaty also makes provision for its termination. "It shall remain in force for six months after notice of its termination shall have been given by either of the contracting parties."

Independently of these express provisions admitting of the cessation of treaty relations between the two countries, it is a recognized doctrine of international law that, under conditions precisely like those which have been described, the abrogation of a treaty, even though it contains no provision for its termination, is justifiable.

In Hall on International Law (4th ed., pp. 367–369) the author says:

"It is obviously an implied condition of the obligatory force of every international contract that it shall be observed by both of the parties to it. In organized communities it is settled by municipal law whether a contract which has been broken shall be enforced or annulled; but internationally, as no superior coercive power exists, and as enforcement is not always convenient or practicable to the injured party, the individual State must be allowed in all cases to enforce or annul for itself as it may choose. The general rule, then, is clear, that a treaty which has been broken by one of the parties to it is not binding upon the other, through the fact itself of the breach, and without reference to any kind of tribunal. * * * Some authorities hold that the stipulations of a treaty are inseparable, and consequently that they stand and fall together; others distinguish between principal and secondary articles, regarding infractions of the principal articles only as destructive of the binding force of a treaty. Both views are open to objection."

"It may be urged against the former that there are many treaties of which slight infractions may take place without any essential part being touched; that some of their stipulations which were originally important may cease to be so owing to the alteration in circumstances, and that to allow States to repudiate the entirety of a contract upon the ground of such infringements is to give an advantage to those who may be inclined to play fast and loose with their serious engagements. On the other hand, it is true that every promise made by one party in a treaty may go to make up the consideration in return for which essential parts of an agreement are conceded or undertaken, and that it is not for one contracting party to determine what is or is not essential in the eyes of the other. * * * All that can be done is to try to find a test which shall enable a candid man to judge whether the right of repudiating a treaty has arisen in a given case. Such a test may be found in the main object of a treaty. There can be no question that the breach of a stipulation which is material to the main object, or if there are several, to one of the main objects, liberates the party other than that committing the breach from the obligations of the contract."

The article of the treaty of 1832 which has been violated by Russia is the one which was the main object of that treaty—the clause which was given precedence over all

others, the very basis and foundation on which all other provisions contained in the document rest. It is not necessary, therefore, to resort to fine distinctions or to indulge in close analysis for the purpose of ascertaining whether the test laid down in this and other authorities has been met. The stipulation which has been broken is not only material to the main object, but was and is the main object of the treaty.

But it may be argued that the suspension of commercial relations between the two countries may hurt our trade. I have a higher opinion of the American people than to believe that they are so destitute of idealism, so devoid of a sense of honor, as to regard a matter of this supreme importance with the eyes and souls of mere shopkeepers. However extensive our trade with Russia might be, we could well afford to jeopardize it rather than to have it said that our country rates the dollar higher than it does the man; that it esteems the volume of its trade more than its national dignity.

After all, the export trade of the United States with Russia does not much exceed $18,000,000 per annum. What is that to a nation the products of whose soil during the past year amounted to nearly $9,000,000,000? Should we then lose all of this commerce, our national prosperity would not be perceptibly affected.

It may also be said that Russia is about to engage in large undertakings which will enlist American capital, the development of mines, the construction of storehouses for grain, the building of railroads, and that we are imperiling such enterprises by denouncing our existing treaties with Russia. But what of that? Is it not better that we may know in advance what the attitude of Russia is to be toward American citizens before they invest their capital for the development of the resources of Russia than to lodge complaints after the capital has been invested and promises have been broken? And after all there are still opportunities in the United States for the profitable employment of adequate capital for the promotion of our own industries, and Central and South America still offer promising fields for the investor.

There are others who will prate of the historic friendship of Russia for America, and the tale will be retold of what Russia did for us during the Revolutionary War and during the Civil War. That fable has been thoroughly analyzed and the real facts have been demonstrated. But assuming that in the past we may have profited from Russia's attitude, who is so credulous as to believe that the land of the Czars, the country of absolutism, has been so enamored of freedom, of constitutional government, of democracy or of republicanism, as to have acted either from love of us or of our institutions? Whenever Russia has acted, it has been simply and solely for political expediency.

But let us assume that Russia has from any motive whatsoever extended to us offices of friendship. Have we not fully requited all of its kindnesses? Was it not through the intervention of President Roosevelt that Russia was extricated from one of the bloodiest and most disastrous wars known to history? The account between the two countries has been fully balanced so far as political favors are concerned.

But there still remains a long account against Russia of broken promises, of violated obligations, of a compact contemned and disregarded, of dishonor inflicted upon our country and its citizens, and unless the virtue of manhood has deserted this Republic its citizens will no longer patiently witness the mockery of diplomatic procedure, but will insist on a complete abrogation of every treaty now existing between the United States and Russia.

APPENDIX 3.

TERMINATION OF TREATY BETWEEN THE UNITED STATES AND RUSSIA.

COMMITTEE ON FOREIGN AFFAIRS,
Thursday, February 16, 1911.

The committee this day met, Hon. David J. Foster (chairman), presiding.

The CHAIRMAN. Although we have not a quorum, Mr. Parsons, unless you have some objection, we will proceed, as the hearing will be printed.

Mr. PARSONS. I shall be very glad to proceed at once.

STATEMENT OF HON. HERBERT PARSONS, A REPRESENTATIVE FROM THE STATE OF NEW YORK.

Mr. PARSONS. I appear in behalf of House joint resolution No. 284, introduced by me, providing for the termination of the treaty between the United States of American and Russia, concluded at St. Petersburg, December 18, 1832. I will read the resolution:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is, and always has been, a fundamental principle of

this Government that the rights of its citizens shall not be impaired at home or abroad because of religious belief; that this Government concludes its treaties for the equal protection of all classes of its citizens, without regard to religious belief; that this Government will not negotiate nor be a party to any treaty which discriminates, or which by one of the parties thereto is construed to discriminate, between American citizens on the ground of religious belief; that the Government of Russia has violated the treaty between the United States of American and Russia concluded at Saint Petersburg, December eighteenth, eighteen hundred and thirty-two, by construing that part of Article I thereof which says that the inhabitants of the respective States 'shall be at liberty to sojourn and reside in all parts whatsoever of said territories in order to attend to their affairs, and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce,' to mean"—

That is, Russia has violated the treaty by construing that clause to mean—

"that American citizens of Jewish faith are subject in Russia to the same class restrictions that Russia imposes upon Russian inhabitants of Jewish faith, by declining to permit American citizens of Jewish faith to sojourn and reside in Russia in order to attend to their affairs and to enjoy to that effect the same security and protection as non-Jewish native Russians, and by refusing to honor American passports issued to American citizens of Jewish faith; that in the judgment of the Congress the said treaty, for the reasons aforesaid, ought to be terminated at the earliest possible time and be no longer in force; and that to this end the President be, and he hereby is, directed to give notice to the Government of Russia that the treaty aforesaid will terminate and be of no force and effect upon the expiration of the year which shall commence after the date of such notification."

This treaty is a treaty of commerce and navigation with Russia, and it is to be found in the recent publication, Treaties, Conventions, International Acts, Protocols, and Agreements, Volume II, on page 1514 and following.

* * * * * * *

The two substantial treaties we have are this treaty of commerce and navigation agreed to in 1832 and the treaty of extradition agreed to in 1887. Of the other treaties, the first was a convention as to the Pacific Ocean and northwest coast of America; then came the treaty of 1832; then in 1854 there was a convention as to rights of neutrals at sea, which I think was the same convention as was entered into with other nations; then in 1867 there was the convention ceding Alaska; then in 1868 an additional article to the treaty of commerce of 1832, concerning trade-marks; then in 1874 a trade-mark declaration; then in 1884 a declaration concerning the admeasurement of vessels; then comes the extradition convention of 1887; then in 1894 an agreement for a modus vivendi in relation to the fur-seal fisheries in Bering Sea and the North Pacific Ocean; than in 1900 a claims protocol; then in 1904 an agreement regulating the position of corporations and other commercial associations; and then in 1906 an agreement by letter in regard to the protection of trade-marks in China. So that the only substantial treaties are this treaty of commerce and navigation and the extradition treaty, and possibly this agreement of 1904 in regard to the position of corporations and other commercial associations.

* * * * * * *

This treaty of 1832 was made at a time when our merchant marine amounted to more than it does in these days, and therefore a great many of its provisions are practically obsolete. Article I is the article referred to in the resolution, and that is the article that gives freedom of commerce and navigation and protects the rights of the inhabitants of the respective States to sojourn in other States. Article X relates to the estates of deceased persons and has been claimed by some to be of some importance. The treaty also contains the most-favored-nation clause, but I take it that even if the treaty was abrogated we would not lose the benefits of the most-favored-nation clause, because we still have the maximum provision of the Payne law to hold over Russia in case Russia should want to claim that we were not entitled to them.

Mr. HITCHCOCK. Suppose this treaty should be abrogated, what injurious effect would it have on Russia?

Mr. PARSONS. Absolutely none. We are a liberal, civilized Nation. We have no laws which discriminate against any Russian coming here, sojourning, and traveling. Russia would lose nothing by the abrogation of the treaty. I also think that we would lose nothing. We stand by principle if we abrogate it, and in view of the way in which Russia has construed the treaty we lose nothing, because Russia has construed the treaty practically to mean that Russia can pass any law she wants in regard to who can travel and who can sojourn in Russia. Therefore she could pass a law saying

that Members of the House of Representatives of the United States of America could not travel in Russia.

* * * * * * *

Russia has placed two constructions on the treaty, first, under the last clause of Article I, which says:

"The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

Russia claimed, under that part of Article I, that American Jews, German Jews, and English Jews were subject in Russia to the class restrictions imposed by the Russian laws upon Russian Jews, and formerly there was a law in Russia that if a Jew belonged to the first guild, which means the business which pays the highest tax or made the highest payment for licenses to do business, then he could do business and foreign Jews could do business; but Russia no longer takes that position, which you see would admit American Jews into Russia.

Now, Russia takes the position practically that a Jew can not go in under any treaty rights. I will read from the letter of Mr. Eddy, chargé d'affaires, to the Secretary of State, dated September 15, 1906, which will be found on page 1301 of Part II, Foreign Relations of 1906. He is giving a statement about the situation of the Jews in Russia:

"Foreign Jews: Those who are not Russian subjects are not permitted to enter the Russian Empire and there become naturalized. The right of temporary sojourning in Russia can only be granted by the minister of the interior or by the Russian embassies, legations, and consulates. (Law of Mar. 14, 1891.) It is hardly necessary to add that Russian representatives abroad never actually give permission to foreign Jews to enter the Empire, even for a short time, and that such permission must be obtained through the ministry of the interior."

The practical effect of that is that no American Jews can go to Russia. The State Department advises them that it is willing to give them a passport, but it advises them that the passport is no good unless the Russian consul will visé it, and he does not do so. Whether he says out and out that he will not visé, I do not know. He may say, "Come back several months hence," but the practical effect is that you can not get it viséed. Mr. Strunsky, one of the editorial writers of the New York Evening Post, a man of great learning and education, sought a passport last year to go to Russia, and the State Department wqs willing to aid him, I think gave him a passport, but he could not get it viséed.

Mr. BENNET. I applied several times at the behest of American Jews to the embassy here to have passports viséed, but in every instance they refused and gave the Russian law as the reason.

Mr. FLOOD. Is it your idea to have this treaty abrogated whether or not Russia has put the wrong construction upon it, or is it upon the ground that Russia has put the wrong construction upon the treaty?

Mr. PARSONS. I wish to have it abrogated because Russia by word and by deed has put the wrong construction upon it. This is nothing new, and I will call attention to the resolutions that have passed the House of Representatives and the Senate for many years in regard to it.

Mr. BENNET. Is my colleague aware of the fact that this is not entirely a Jewish question, even in a limited sense, and that Russia refuses to extend to Catholic and Protestant missionaries in Russia the rights which are extended to the missionaries of the Russian Greek Church in the United States, and that there is pending before the Committee on Immigration and Naturalization a resolution introduced by Mr. Sheppard of Texas, based on that violation of the treaty?

Mr. PARSONS. I did not know that there was any recent communication on that subject, but in 1884 there was a case, which is found on page 110, Vol. IV of Moore's International Digest, where the American minister at Teheran, Persia, reported that the Russian minister there had refused to visé the passport of James Bassett, a citizen of the United States, who was about to leave Persia for America, on the ground that a Russian ordinance prohibited the visé of the passports of clericals unless permission was first obtained from St. Petersburg. Later on he did give the visé. The American legation at St. Petersburg was instructed to bring the matter to the attention of the Russian Government, and to say that, whatever ground might exist for the establishment of such an ordinance as that described with respect to the citizens or subjects of other powers, it was conceived that the spirit of the treaty arrangements of the United States with Russia would be violated by applying it in the case of American citizens,

either clergymen or laymen, whether residing in Russia or passing through that country, so long as they did not render themselves obnoxious to good order.

"All citizens of the United States, whatever their occupations, are," said the Department of State, "equal before the law of this country, and are entitled to the undiscriminating protection of Russia, under our treaty obligations, as such, for the treaty makes no distinction. If our citizens can sojourn in Russia, it would seem that a fortiori they can pass through the country without hindrance, if provided with the passport of their Government.

Resolutions [1] have passed one or the other branch of Congress. The first was passed on June 11, 1879, and it was a joint resolution.

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The next resolution was one introduced by Mr. S. S. Cox, of New York, which was reported favorably and passed the House of Representatives on June 30, 1882.

Mr. FLOOD (interposing). If you will allow me to interrupt you, since I have been on this committee this question has been considered quite frequently, and I believe the entire committee is in sympathy with taking some action to protect the rights of gentlemen of the Jewish faith in Russia, if we can do it. What good will this particular resolution accomplish in that line?

Mr. PARSONS. I will come to that now, if the committee does not desire to go back into the history of this matter.

Mr. FLOOD. Of course, I am just speaking for myself, but we have considered this matter frequently, and I believe the whole committee is in sympathy with the purpose of doing something to relieve these gentlemen traveling in Russia or who have to sojourn there.

Mr. PARSONS. There are two reasons for abrogating this treaty. We have not accomplished anything by what has been done in the past. Various resolutions have passed one or the other branch of Congress and the State Department has pounded away at the matter for years and years. Of course, just what the situation is with Russia you would have to learn from the State Department, but I have followed this matter as closely as I can and I have been allowed to see about all the recent correspondence in the State Department. I have been through all the past correspondence published in the volumes on foreign relations, and I say that to-day there is absolutely no prospect of getting Russia to do anything through diplomatic channels.

Now, if we continue just parleying on the matter as we have, nothing will be accomplished, but we have never yet said that we are in dead earnest about it, and when we say to Russia that this is a matter of such vital importance to us, to a large element of our people and to our fundamental principles, that we are going to get rid of your treaty if you will not change it, then we will show Russia that we mean business. I do not say that it will lead immediately to any relief, but I believe that if, when Secretary Evarts and Secretary Blaine stated the fundamental principles on this matter as they did 30 years ago and more, if then we had abrogated the treaty, we would have a new treaty now, and I say that you will make one step forward toward a better situation by terminating the treaty than if you simply go along parleying about it. That is one reason.

Mr. HITCHCOCK. How can we abrogate the treaty?

Mr. PARSONS. By a joint resolution directing the President to abrogate it.

Mr. HITCHCOCK. I understand you to say, however, that the treaty is obsolete, so far as any benefits are concerned?

Mr. PARSONS. There may be a difference of opinion. I meant in regard to some of its provisions. I have not heard any discussion, and I have not been able to come across any material which would show whether so far as it relates to navigation it is a treaty of any importance. Of course, what this treaty, like all these treaties, provides, except so far as special privileges are concerned, is international law in civilized countries.

Mr. COOPER of Pennsylvania. Supposing this resolution should be passed and become a law and the President and Secretary of State should notify Russia and abrogate this treaty, what would be the effect upon the diplomatic relations with Russia, generally speaking?

Mr. PARSONS. None. There would not be a particle of difference. If Russia chooses now to pass a law saying that Mr. Cooper of Pennsylvania can not go into Russia and travel there, Russia can do it according to what she claims to be her rights. While we have this treaty, as a matter of fact, whether we get anything under it depends on whether Russia has chosen by her own legislation relating to her own internal affairs to allow us to get anything under it. Of course, Russia

[1] For the resolutions referred to by Mr. Parsons see The American Jewish Yearbook for 5670, pp. 21–37.

might say if we abrogated the treaty that she did not want Americans to travel there; but I hardly think Russia would want to take that position before the civilized world.

Mr. COOPER of Pennsylvania. The treaty is in existence and some claim it is violated. What is the use of abrogating the treaty with the idea of getting any new treaty if we have one already that does not accomplish the purpose? Is it a question of enforcing the treaty?

Mr. PARSONS. You can not enforce it.

Mr. COOPER of Pennsylvania. How could you enforce any other treaty?

Mr. PARSONS. Of course, you can not enforce it; you have to rely upon the honor of the other side. I admit that the honor of the other side has not been much in evidence in connection with this treaty; but this is a new situation before us, a situation which probably was not before President Andrew Jackson when the treaty was consummated, in 1832. The new treaty would not be ambiguous on this point, and Russia would know, if she agreed to a new treaty, just what she was bound to do, and therefore we could rely on her agreeing to follow out the terms of the new treaty.

Mr. FLOOD. If we abrogate this treaty, do you think there would be a new treaty on the subject?

Mr. PARSONS. I do not know. Frankly, I doubt whether there would be immediately, but I think there will be sooner if you abrogate the treaty than if you just continue in the way you have, which has accomplished nothing, and there is not anything new that we can do except to abrogate the treaty.

Mr. COOPER of Pennsylvania. If we had no treaty, in what condition would it leave the other citizens outside of those of the Jewish faith; would we have any treaty or diplomatic relations whatever that could be enforced, in regard to any other citizens?

Mr. PARSONS. We would be in the situation then that we are in as to any country with which we have no treaty as to travel. No citizen of any other country needs a treaty to enable him to travel in the United States, and Russia is almost the only country as to which you have to have a passport to enter it. Now Russia can honor her passport or not, in the future, treaty or no treaty, just as she has a mind to.

The CHAIRMAN. Your idea is that Russia would dislike very much to have us abrogate this treaty on the ground that we believed that she had broken the treaty?

Mr. PARSONS. Yes, sir; and Russia would realize that our protest in the matter was not vain words, and if she wanted to remain on friendly terms—that is, the best terms with us—then, she would have to have a treaty with us, and that treaty would have to be in harmony with fundamental American principles; and that brings me to the second reason, the incontrovertible reason, in my opinion, for the abrogation of this treaty.

What is the mission of the United States, unless it is to stand for certain fundamental doctrines among mankind and in the civilized world—such as the right of freedom of religious belief?

In the Constitution we provided first, in paragraph 3 of Article VI:

"The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States."

Then, the first amendment to the Constitution provided that—

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Now, those extracts indicate some of our fundamental principles, namely, the right of freedom of religious belief and the right of American citizens to be dealt with without regard to their religious belief.

Here we have a treaty, an agreement, which we never supposed meant that American citizens should be discriminated against on the ground of their religious belief, but which the other party thereto uses as a justification for discriminating against Americans on the ground of their religious belief. If we believe in the principle I have referred to do we show our belief when we remain tied to a treaty, the practical working construction of which is in direct contravention of the principle?

Mr. COOPER of Pennsylvania. I would like to ask whether or not the Jewish people of England and Germany are discriminated against the same as the Jewish people of the United States, or whether the United States is singled out for different treatment?

Mr. PARSONS. No; the United States is not singled out for different treatment, so far as the general matter of passports is concerned. England unsuccessfully protested against the construction put upon its treaty.

I wish to call your attention to one thing to show what Congress did on an analogous matter, the matter of expatriation. Russia never has agreed to the principle of expatriation—that is, that a Russian subject could come over here and become a natural-

ized American citizen without the consent of his own Government—and we passed an act of Congress, July 27, 1868, in which we set forth the fundamental principles about the right of expatriation, and we incorporated those in sections 1999 to 2001 of the Revised Statues, and I will just read those because I think they show that in that matter we acted and would not allow any interference with our principles.

Section 1999 of the Revised Statutes says:

"Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign States, owing allegiance to the Governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disallowed: Therefore, any declaration, instruction, opinion, order, or decision of any officer of the United States, which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic.

"SEC. 2000. All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this Government the same protection of persons and property which is accorded to native-born citizens.

"SEC. 2001. Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign Government, it shall be the duty of the President forthwith to demand of that Government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship the President shall forthwith demand the release of such citizen; and if the release so demanded is unreasonably delayed or refused the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall, as soon as practicable, be communicated by the President to Congress."

We can pass a law, and this joint resolution would be a law, that embodied the principle involved in this matter in the law, just as we passed the law which embodied the principle of the right of expatriation in the law. Those are the two reasons. As long as we remain tied, then we are faithless to the proposition that all American citizens are to be treated everywhere without regard to their religious beliefs.

Now, this is an American question, not a Jewish question. Of course, we hear about it from our Jewish brethern, because it is their Americanism which first feels the insult; but it is an insult also to the Americanism of every one of us. Suppose, for instance, that this discrimination was against Presbyterians, such as Brother Bennet and I are, do you suppose that the Presbyterians of this country would stand for a treaty which allowed discrimination against them on the ground of their religious belief? I think our Jewish brethern have been exceedingly patient and long-suffering in this matter, and it is our blame, our shame, that nothing has been done; and therefore I introduced this resolution, believing that we could do something new, could do something affirmative, and that to speak by action where words had failed would pave the way to accomplishing something, and consequently that we could only be true to our fundamental principles of the right of American citizens to equal treatment at home and abroad without regard to their religious beliefs by getting rid of a treaty to which we were tied and which the other side said entitled it to discriminate against American citizens on the ground of their religious belief.

Now, I wish to submit, if I may, as a part of my remarks the resolution which was unanimously adopted at the meeting of the Council of the Union of American Hebrew Congregations, held at the Hotel Astor in the city of New York on January 19, 1911, and referred to the executive board for transmission to the President of the United States and to Congress. (See p. 54, supra.)

In that connection I ask to have printed as a part of the hearing the address delivered by Mr. Louis Marshall on "Russia and the American Passport," before the Council of American Hebrew Congregations in New York, on Thursday, January 19, 1911, and I asked Mr. Marshall, who was one of those invited to the White House yesterday by the President, to forego his appointments in New York to-day and to appear before the committee and state his views on that matter. I know from the standing which Mr. Marshall has as a citizen, as a lawyer, and as a Jew, that whatever he says, speaking for the Jews and speaking for Americans, can be taken at its face value.

Mr. HITCHCOCK. You favor the passage of this resolution even though it deprives Russia of no benefits whatever, and it deprives the United States of some benefits now derived under the existing treaty?

Mr. PARSONS. I would. I think it is a question of the rights of man against any other rights that may be involved here, and they would be only commercial rights, and

I think this is a test whether we are going to be true to our best traditions or whether we are not.

Mr. HITCHCOCK. I take it from what you say that you think the effect will only be a moral effect and that Russia will not really lose anything by the abrogation of this treaty?

Mr. PARSONS. But in the course of time, as civilization advances and as liberalism grows in Russia, there is bound to be a new condition of affairs. The time will certainly come when American Jews will be allowed to travel in Russia. It will come sooner if we make the demand, and make it by saying that we will not be a party to any treaty which does not entitle them to equal treatment.

Mr. FLOOD. How long have the Jewish people been discriminated against?

Mr. MARSHALL. Thirty years.

Mr. PARSONS. It is longer than that. Secretary Blaine, in an elaborate letter that he wrote to Mr. Foster, our minister to Russia, on July 29, 1881, said: "From this time down," he gives a history of the attitude of Russia toward the Jews, showing that in the reign of Catherine the Jews were invited to come into Russia. "From this time down," he refers to the time from 1817 down to 1860, "I can find no trace of the enforcement, especially against American citizens, of the restrictions against Jewish travel and residence which are stated to have existed when our treaty with Russia was signed."

Russia has claimed that she had restrictions against the Jews in 1832, when the treaty was signed.

Secretary Blaine goes on:

"It is a significant circumstance that the acknowledged authorities on private international law, writing during this period upon the legislation of all Europe as affecting the persons and rights of aliens, make no reference to such disabilities."

Then he goes on and calls attention to the case of Theodore Rosenstrauss, which started by a letter from Mr. Jewell, our minister to Russia, December 15, 1873; so the controversy dates back to then.

I would like to read just what Secretary of State Blaine said:

"I need hardly enlarge on the point that the Government of the United States concludes its treaties with foreign states for the equal protection of all classes of American citizens. It can make absolutely no discrimination between them, whatever be their origin or creed."

And he says, quoting the President—he is writing this letter to Mr. Foster, our minister:

"That if, after a frank comparison of the views of the two Governments, in the most amicable spirit and with the most earnest desire to reach a mutually agreeable conclusion, the treaty stipulations between the United States and Russia are found insufficient to determine questions of nationality and tolerance of individual faith, or to secure to American citizens in Russia the treatment which Russians receive in the United States, it is simply due to the good relations of the two countries that these stipulations should be made sufficient in these regards; and that we can look for no clearer evidence of the good will which Russia professes toward us than a frank declaration of her readiness to come to a distinct agreement with us on these points in an earnest and generous spirit."

That was written very nearly 30 years ago, and he says further:

"You can further advise him that we can make no new treaty with Russia nor accept any construction of our existing treaty which shall discriminate against any class of American citizens on account of their religious faith."

I will be glad to answer any further questions which may suggest themselves, if I am able to.

Mr. AMES. Do you know whether other countries have similar treaties with Russia, along the same lines that we have?

Mr. PARSONS. In our diplomatic correspondence it is stated in one place that this same Article I exists in Russia's treaties with Germany and England, and in another place the correspondence says that their treaty stipulations are not as favorable on the subject as ours are. I have heard it suggested, but about this I am not sure, that to-day Russia allows rich German Jewish bankers to go into Russia, but as to whether that is so or not I can not speak with any authority. I inquired at the State Department and was told that they did not know that to be a fact.

Mr. LOWDEN. The charge is that they do not simply discriminate against people of the Jewish faith who were once their subjects, but also against people who were never their subjects?

Mr. PARSONS. Exactly. Herman Rosenstrauss, whose case arose in 1882, was a native of Wurttemberg, and so I suppose was his brother, whose case arose in 1873. It does not make any difference where they come from, they are all discriminated against.

Mr. LOWDEN. That is a clear violation of the treaty?

Mr. PARSONS. Yes, sir.

Mr. COOPER of Wisconsin. They stop them at the frontier?

Mr. PARSONS. Yes, sir; they stop them at the frontier. Of course you can not go into Russia unless your passport is viséed before you reach the frontier, and you can not get your passport viséed. The result is that when you get to the frontier you come back, if you are foolish enough to start. There is one instance in the correspondence where they expelled an American Jew from St. Petersburg and he tried to get out of Russia, and they said that while he was expelled from St. Petersburg he could not get out of Russia unless his passport was viséed.

Mr. LOWDEN. Of course, the Russian Government has never admitted the right of expatriation?

Mr. PARSONS. That is an interesting matter. I understand that the situation in regard to that in Russia is that in the new penal code which was enacted in 1903 expatriation is no longer treated as a crime, but that no edict of the Czar has yet been promulgated which brings into effect that portion of the new code. Now, I do not know just how they do things there, but a Russian lawyer, now an American citizen, who follows those things very closely, gave me the foregoing as the facts. Thus Russia has not yet acknowledged the right of expatriation, but has come very close to it. The document on citizenship published a few years ago by the State Department said that Russia did not recognize the right of expatriation.

STATEMENT OF MR. LOUIS MARSHALL, NEW YORK, N. Y.

Mr. MARSHALL. First of all, I wish to express my sincere thanks and appreciation to Mr. Parsons for what he has done in this matter. It is a fine exhibition of American citizenship, and I am sure that the members of the committee, when they come to consider the question in its entirety, the history of it, and what it means—not to the Jews, but to the entire American people—will be rejoiced at the fact that Mr. Parsons has had the patriotism to present this resolution for their consideration.

I am a Jew by religion. I am one of 2,000,000 Jews who live in this country, but I would not raise my voice for an instant in the Halls of Congress for the purpose of asking any special favors to the Jewish people. My only reason for coming here is because I am an American citizen, and because I glory in that citizenship, I desire that there shall be no taint or stain inflicted upon its integrity.

Mr. Parsons has well said that this is not a Jewish question; it is an American question. I should deplore the day when there should ever arise a Jewish, a Catholic, or a Protestant question in the United States. We can never suffer any questions here concerning individual rights but such as relate to the entire American people. The resolutions which have been read here were adopted at the council of the union of American Hebrew congregations held in the city of New York in January last. They sound no Jewish note. They were not passed because the members of the council spoke as representatives of the Jews, but because, gathered as they were as a body of American citizens, they sought merely to call attention to a grievance which had been inflicted, not upon them, but upon the entire American people.

Let us see what the situation is. In 1832 our Government, then not so powerful as it is to-day, entered into a treaty with the Russian Government, a treaty of commerce and navigation, a treaty which was intended to give a mutuality of rights to the people of the two countries in each other's territory. That treaty was a contract; it was not a unilateral contract, but throughout its provisions, and especially in the first article, there breathes but one thought—that of the mutuality of obligation and of right. The two nations are spoken of as the "high contracting parties." There can be no such thing as a contract except one based upon the mutuality of right and of consideration. In that clause occurs also the expression which has now become music to our ears—the idea of reciprocity. It is stated to be a reciprocal binding agreement between the two nations.

It is inconceivable that the United States of America should have entered into a contract with another nation upon the theory that it was giving everything and receiving nothing; that it was giving to Russian citizens the right to travel and sojourn in United States territory, whereas American citizens were to have that right minus; that they were to have that right with respect to a certain portion of the American people but not as to all; that the right was to be conferred upon those who were of one faith, but not upon those who were of other faiths. It is impossible to believe that an exception was written into that treaty by the hand of James Buchanan, who was then the minister plenipotentiary at the court of St. Petersburg, who negotiated it, or that it was adopted by the Senate of the United States, that the rights conferred should exist in favor of all citizens of the United States except its citizens of the Jewish faith. If such a proposition were made to-day—were a new treaty to be entered

into with Russia—there is not one Member of the Senate who would not stand aghast at the suggestion, nor would there be a single Member of the House whose blood would not boil with indignation at the very thought.

Mr. HITCHCOCK. May I submit a question?

Mr. MARSHALL. Certainly.

Mr. HITCHCOCK. Suppose Manchuria should become a part of Russia and the citizens of Manchuria should become Russian citizens, what right would we have to exclude them?

Mr. MARSHALL. We would have no right to exclude the citizens of Manchuria who were to come to this country for temporary travel and sojourn.

Mr. HITCHCOCK. Although Mongolians?

Mr. MARSHALL. Yes, sir. Under our treaty with China we recognize the right of merchants to come to this country to trade and conduct business, those who come with passports. Our Chinese-exclusion act only relates to those who come to this country for the purpose of making it their home.

Mr. COOPER. We discriminate against them because of their different race. This is a different religion. Our Constitution says nothing about the race, but we can not make any discrimination against different religions.

Mr. MARSHALL. I wish to say in that connection that there are some Jews who say they are Jews because of race. I am not one of those to whom the racial idea is of importance. I do not know what "race" means, and I defy anybody to tell me what is the accurate meaning of "race." The modern writers on ethnology have subdivided the people of the earth into some 70 different races. The old idea of Blumenbach that there are only five races has been long since exploded. But my brethren are all Jews by religion. This exclusion from Russia of American Jews, as stated in a recent dispatch, is based entirely on the theory of a religious test, not of a racial test.

Mr. PARSONS. May I suggest that they ask the question, "What is your religion?"

Mr. MARSHALL. And not "What is your race?"

Mr. BENNET. And an American-born Jew has many less rights in Russia than a Chinese merchant has in the United States.

Mr. MARSHALL. Certainly.

Mr. BENNET. He can not enter the door.

Mr. MARSHALL. If you want instances, I can multiply instances which will satisfy you on that point.

Mr. PARSONS. May I suggest, in answer to the question by Mr. Hitchcock, that this question of the right to travel should not be confounded with the question of the right of immigration?

Mr. MARSHALL. Not at all.

Mr. PARSONS. We admit that every country has the right to say who shall come there to live, but all civilized countries admit those who are travelers to come and travel in their country.

Mr. MARSHALL. That only relates to temporary sojourn. It does not refer to residence, not to the right of permanent immigration. That is entirely beside this question. This is wholly a question of our rights under a treaty which makes no exception of any class of people based on race or creed or religion to travel and sojourn in Russia, the exclusion of these people being frankly stated by Russia to be on the ground of religion. I do not like to consider personal matters, but will nevertheless do so for purposes of illustration.

I was born in this country, my wife was born here, her mother was born here; my children were born in this country. My parents and my wife's father were born in Germany. None of us, so far as I have any trace, has ever placed a foot on Russian soil. If my children should desire to-morrow, for purposes of business or for any other legitimate object, to visit Russia they would go to the State Department of the United States and there receive a passport, bearing the great seal of the United States, certifying to their citizenship and to their equality before the law of the United States. Yet they would be warned that "even though this passport is extended to you, and the flag of our country is supposed to be your ægis of protection, you must first secure the visé to this passport from the Russian ambassador or from some Russian consul." If my sons should then call on the Russian representative, the first question that would be asked of them would be, "What is your religion?" If they should answer, as I hope they and their descendants may for generations to come, "I am a Jew by religion," they would be told: "You can not enter Russia, although the United States of America certifies to your loyalty as a citizen, although your parents for two generations have been Americans and have sought to do their duty to their country, you can not enter the door of Russia." And if my son should point to this treaty, the Government of the United States would say, as it is bound to say, and as has been said by the lips of some of the greatest statesmen who have been in charge of its affairs of state: "It is true that this treaty makes no exception which excludes you from its benefits. It is true that

Russia has made a contract with us which is mutual and reciprocal in its obligations and which gives the right of sojourn and travel in Russia to any and all American citizens, yet we are powerless to act. While this treaty that gives you this right has been broken and flouted and dishonored by Russia, we must nevertheless swallow the insult, and you, with thousands of others who have gone before you, and who will follow you, who have asked the unqualified enjoyment of the rights held by you in common with all American citizens, must continue to bear the sufferings which it has been the fate of your people to bear from generation to generation. Russia's insults must be borne in patience. We must rely on its magnanimity."

Although it is of no possible importance, still it can be shown that Russia's attitude affects our country commercially, if it is proper to discuss commerce in this connection. Mr. Horowitz is president of the Thompson-Starrett Co., one of the greatest building companies in the United States. At the age of 35 years, by his energy and intelligence, he has attained that high position. That company, under his supervision, built the magnificent Pennsylvania Station, which is an ornament to this city.

A few years ago, learning that the Russian Government was about to build a similar station in St. Petersburg, his company thought that it might be desirable for him to go to Russia to make an investigation in order, if possible, to obtain the contract. He applied to the State Department for a passport and received it. He then asked Judge Penfield, one of the distinguished lawyers of this city, to procure the approval of that passport from the Russian ambassador at Washington, it being necessary for him in the meantime to go to England to attend to business which he had there. The representative of the Russian Government, although he learned of the purpose of Mr. Horowitz, set his face against the granting of the passport, with the consequence that American trade and industry was indirectly affected by the exclusion of this estimable gentleman. I could point out for a day similar instances, but I prefer to plant myself upon the higher considerations which affect this question—on the sentimental considerations. It would be a sorry day for this country if wholesome sentiment should cease to control in matters of this kind. and when we would have to regard the right of citizenship from the hard, material, commercial side or from the standpoint of mere expediency.

There has been but one interpretation placed upon this treaty by the United States from the beginning. It is impossible to give it any interpretation other than that which we have given to it, namely, that there can be no discrimination as against any class of American citizens, nor, in fact, any classification of citizens. It can not be done without a serious reflection upon the honor of our country and without involving the great charge that the Government of the United States, in permitting or regarding such discrimination with equanimity, becomes a party to an unconstitutional agreement—one based on a distinction as to creed; one based upon a religious test, and I shudder at the thought that such a consideration should ever enter the mind of any member of our Government.

The general rules of interpretation applicable to treaties are well known and are settled by the Supreme Court of the United States. Mr. Justice Field, in Geofroy *v.* Riggs (133 U. S., 271), says:

"It is a general principle of construction with respect to treaties that they shall be liberally construed, so as to carry out the apparent intention of the parties to secure equality and reciprocity between them. As they are contracts between independent nations, in their construction words are to be taken in their ordinary meaning as understood in the public law of nations, and not in any artificial or special sense impressed upon them by local law unless such restricted sense is clearly intended. And it has been held by this court that where a treaty admits of two constructions, one restrictive of rights that may be claimed under it and the other favorable to them, the latter is to be preferred."

Treaties, as said also by the Supreme Court of the United States in Tucker *v.* Alexandroff (183 U. S., 424), are to be considered as governed by the doctrine of uberrima fides, as proceeding on the utmost good faith and as based on the honor of the contracting parties.

We of the United States look at this treaty with our eyes and not with Russian eyes. We are to construe it as we must have understood it and should understand it. We must read it without implanting upon it an exception which would involve disgrace upon our country. We must give to it that favorable interpretation which the Constitution requires that all members of the State must be treated alike without any exceptions in favor or against any of them. That interpretation of the courts has been the interpretation placed by both of the great political parties of this country upon this very treaty. They have spoken upon it time and again in their platforms, which recognize the existence of a great grievance—one of sufficient importance to challenge the attention of the voters of the Nation. The only occasion for writing these clauses into

the two platforms of the great political parties, both in 1904 and 1908, was this mooted question of the Russian disregard of its treaty—of the stain placed by it on American citizenship.

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When both political parties are in accord on this question and have both recognized the necessity of action to heal this one sore spot in the relations of our Nation with other countries, it is time for the House of Representatives to speak upon that subject in no uncertain tone. It ceases to be a question affecting the Jews of this country, because when one citizen is insulted by a foreign nation each of the 90,000,000 of our people is equally insulted. The insult is not reflected on individuals, but it is imposed on every member of the Nation. If your wife or your son is insulted, you consider the insult as aimed and leveled at you. If your State, if your country, if your city is insulted, you take umbrage at it, not personally, but as a citizen of the community to which you belong. And so I say that if discrimination is indulged in against any members of the State on account of their faith, the real injury is an injury inflicted upon American citizenship and not upon the individual, he sinks into insignificance.

Mr. Parsons has well said that if this question related to an insult to a Presbyterian, you would simply feel that an insult had been inflicted not upon the Presbyterian as such, but upon him as a representative, as a part, of the American people. The same would be true with regard to a Catholic, or a Methodist, or an Episcopalian, a man of any other faith, or a man of no faith. In fact, Russia is now disregarding the passports of Catholic priests who are citizens of the United States. If in the United States we should discriminate against a Greek Catholic who is a citizen of Russia, the wrong would be inflicted upon the Russian people. If Russia should say that no man who is a resident of the State of Virginia, or of the State of New York, or who resides east of the Mississippi or west of the Mississippi, or north or south of the Ohio River, should be admitted into Russia, we would not consider such action as affecting the East or the West, the North or the South. We would treat it as an insult inflicted upon the entire body of American citizens.

I do not suppose, therefore, that any Member of the House of Representatives would for a moment consider this as a subject which especially concerns the Jew. He must deal with it as one which concerns every part and every section of our body politic.

Shall this state of affairs continue? Shall we allow this treaty to be disregarded in the future as it has been in the past? Shall the House of Representatives say, "We will continue to make diplomatic representations to Russia; possibly something may come of it?" Why, these diplomatic negotiations have been going on actively for the last 30 years. Even in the days when Grover Cleveland was President of the United States, in one of his messages to Congress he declared that the conditions which then existed were intolerable; and yet we continue to tolerate them. Mr. Blaine, in 1881, used the language which has been read by Mr. Parsons, and in that same note, which he addressed to Mr. Foster, he said:

"From the time when the Treaty of 1832 was signed, down to a very recent period, there has been nothing in our relations with Russia to lead to a supposition that our flag did not carry with it equal protection to every American citizen within the domain of the Empire."

That forceful statesman then said that we must take immediate action to prevent the continuance of the abuse, which was then about to assume an acute form. He was followed by Mr. Olney on the same lines, and he in turn was followed by one statesman after another, who reiterated the same proposition; and thus for 30 years these negotiations have been going on, and we have not advanced one step. Administration follows administration in the thorny path of diplomacy. They all begin with the earnest desire of securing relief, but they are speedily sidetracked. Russia is persistent in setting its face against a recognition of this treaty, and in the meantime is working up a statute of limitations in favor of itself. It is beginning to argue, "You have been silent for so many years. Rights have in the meantime accrued under this treaty as construed by us. It is now too late to make a change without endangering certain interests." A statute of limitations against the honor of American citizenship. Well, we have tried and we have tried negotiations of a diplomatic nature, and those negotiations will proceed until the crack of doom, and no impression will be made upon the impervious cuticle of the Russian statesmen who have these negotiations in charge. I prophesy that we will continue these negotiations interminably, and that with each year the conscience of America on this subject will grow fainter and fainter, until gradually we will read into this treaty an acquiescence in the Russian doctrine of discrimination among citizens and of a discrimination against men by reason of their faith. The only remedy lies in the abrogation of the treaty.

Mr. COOPER of Wisconsin. Mr. Marshall, let me ask you one question. As I understand it, your desire is now that this treaty be by Congress immediately abrogated?

Mr. MARSHALL. Instantly; that is, according to the terms of the treaty, that notice be given.

Mr. COOPER of Wisconsin. One year's notice?

Mr. MARSHALL. One year's notice.

Mr. COOPER of Wisconsin. Then after that has happened do you desire that negotiations shall be undertaken?

Mr. MARSHALL. I shall be very glad to see the department negotiate a new treaty.

Mr. COOPER of Wisconsin. Is it your hope that this protest, attracting, as it would, world-wide attention to what is considered in civilized countries everywhere to-day an outrage, would arouse a world-wide public opinion?

Mr. MARSHALL. It would inevitably do so.

Mr. COOPER of Wisconsin. And the greatest force in the world to-day is——

Mr. MARSHALL. Public opinion.

Mr. COOPER of Wisconsin. Public opinion?

Mr. MARSHALL. Yes; precisely—public opinion. We feel that if the voice of America is once more raised in favor of human rights, of equality of all men before the law, then it will become known that American public opinion can not be Russianized, and that Russia will have to respond to that call as much as any nation in the world.

Mr. AMES. Mr. Chairman, I would like to ask Mr. Marshall a question. Do you feel that in abrogating this treaty we would pierce the epidermis of the Russian statesmen at all?

Mr. MARSHALL. Morally, yes; because even Russia can not withstand the public opinion of the world when directed against her.

Mr. AMES. As a practical proposition, do you not think it would be more efficacious if there were a rider attached to the maximum and minimum clause of our tariff, if that could be done, making that a matter of commercial interest to Russia, and that they would be more likely to feel that pressure than to feel the pressure of public opinion?

Mr. MARSHALL. That may be another step. Mr. Parsons and I disagree in one particular. I have asked from time to time, and I have asked in this address which has been read into your record, that every treaty with Russia should instantly cease, both the treaty of 1832 and the treaty of 1887, with reference to extradition, under which treaty Russia certainly reaps benefits while we have a comparatively small interest in it. Under the treaty of 1887 Russia has been reaching out its hand across the water for the purpose of seizing political offenders and taking them to Russia.

Mr. COOPER of Wisconsin. Let me suggest right here that the proposition advanced by Mr. Ames, if it were adopted, would amount to saying to the world this: "You now exclude men because of their religious faith. If you keep on doing that, we will put up a high tariff against you."

Mr. MARSHALL. Yes.

Mr. COOPER of Wisconsin. And Russia will say, "All right; put up your high tariff. We will keep on excluding them." Then it amounts to this, that we are willing to place ourselves in the position of putting the dollar above the man.

Mr. MARSHALL. I am very glad to hear that expression, because——

Mr. PARSONS. May I just make an answer to that, too, which will cover the question as to what the effect will be?

Our principal imports from Russia are furs, and they come in—a large measure of our imports come in—free of duty. I am afraid that we would be biting off our noses to spite our faces if we put a clause in the tariff to seek to reach the object in that way. If you wish, I can just briefly give you some figures as to what the effect would be. Incidentally, I would say that Russia would be harmed commercially by the abrogation of the treaty, if she interpreted that to mean that thereby we had lost the most-favored-nation rights, because then the retaliatory clause of the Payne law would come into effect, and her $9,000,000 of free imports—that is what they amounted to in 1909—would have to pay a duty of 25 per cent ad valorem, and the $2,000,000 of her dutiable imports would have to pay an additional duty of 25 per cent ad valorem.

Mr. AMES. Would it not create a class of men in Russia who would be anxious to see the treaty lived up to? As it is, who is there in Russia who is primarily interested in seeing that the provisions are lived up to?

Mr. PARSONS. Well, there is a great liberal element in Russia at the present time, somewhat submerged, but bound to have its voice heard some time, and Russia can not withstand the pressure of public opinion from a great country like the United States on a matter which involves human rights, because the pressure from within would become dangerous.

Mr. BENNET. After the massacre of Bialystock this Congress, on a resolution introduced by the late Senator McLaurin, and put through the Congress, deplored the fact

of the massacres of Bialystock and Sedlitz, and I am not sure that there has ever been a major pogrom in Russia since. The British Parliament also followed that, and I think the highest legislative body of one other European Government; so that there is a liberal sentiment in Russia which is reached by actions such as this.

Mr. MARSHALL. Not only that, but there is selfish interest on the part of Russia in that respect. Russia does not wish to be isolated from the rest of the world.

Mr. PARSONS. If you wish to realize the spirit that pervades a large element of the Russian people—the non-Jewish element—in favor of more liberal treatment of the Jews, read a very remarkable book—remarkable when you consider the surroundings—that came out a few years ago, called "The Memoirs of a Russian Governor," in which this member of the nobility sent down to Bessarabia, Prince Urussof, gives an account of what took place there, and he tells everything except what the Czar said to him before he went down, and there is not much difficulty in implying from the context what the Czar did say to him. Now, that is an illustration of the kind of people there are, and of what the Government there has to tolerate from public opinion within her borders, and she is always in danger of being criticised and having trouble made by such people, and of course they are ready to respond the instant they get any encouragement from the outside on the part of a nation which is asserting the rights of men as applied to its own citizens.

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Mr. MARSHALL. The question, therefore—the practical question—comes down to this, as I was about to say, that while I should like to see all treaties between Russia and America abrogated, that which Russia wishes most—the extradition treaty, as well as the treaty of 1832—shall we not at least give notice of the termination of the treaty of 1832?

Although nobody can say what would happen as a result of such action, and possibly nothing might happen, still there is ground for belief that before that treaty is finally terminated advances would be made by Russia to meet us in solving the problem in which we are so greatly concerned by recognizing, in so many words, so that there will be no room for misinterpretation by Russia, that every citizen of the United States is to be placed on a basis of equality. But whether immediate results follow or not, one thing is certian, that Russia will not be willing to stand in a position of isolation, based as our action would be on the noble sentiments expressed in the pending resolution. It is not founded on considerations of business or of commerce. It is not on any question which relates to the dollar, but, as has been well said by one of your number, the man is placed above the dollar, and this country not only raises its voice in protest, but it also raises its hand against a treaty which has been so interpreted by Russia as to put a taint upon American citizenship.

If this treaty is abrogated we are not losing anything in consequence of that abrogation. I do not believe that Russia will turn out anybody whom it now admits who is armed with an American passport because the treaty has been abrogated. If it does, then let us know it. Then there will be time for retaliation in other respects. Then we can begin to consider what we can do in the direction of reprisals. I hope the time will never come when that shall become necessary. I would rather have this country stand in the position of saying, "Let every Russian come to the United States no matter who he may be, no matter what his faith, even though Russia does not receive a single American within its boundaries; but we shall not tolerate the idea of being a party to a treaty, and of recognizing as if in force a treaty which carries with it the imputation that we recognize any such vicious principle as Russia insists upon reading into it." It is in that recognition that the harm exists. We are therefore ten times better off, a hundredfold better off, without any treaty with Russia than we would be with a treaty which Russia has been consistently disregarding for over 30 years, and which not only is being disregarded by Russia, but which is insidiously undermining our American consciousness and the public appraisal of the value of American citizenship. * * * There is much more to be said on this subject. Mr. Parsons has kindly had my address put into your minutes, which I greatly appreciate. In that address I try dispassionately, and from the standpoint of an American citizen, to consider the treaty—its provisions, its interpretations, its history—and use arguments, some of which I have enlarged upon here, as to the consequences of an abrogation of the treaty. I would consider it a proud day, not for the Jews alone—I eliminate them entirely from consideration here—but a proud day for American citizenship, if Congress should adopt in the words in which it has been framed, this resolution of Mr. Parsons. The world would once more be informed that there is something in America which is higher than materialism; that we are still true to the ideals of the fathers of the Republic, and that the rights of man, as they are the foundation of our Government, are also the proudest jewel in its crown.

Mr. PARSONS. Mr. Chairman, I think that all the information that the committee can want has been furnished. I have no doubt that there are a number of Members of the House who would be glad to appear and speak in behalf of the resolution, and I have also received notice from some societies that they would like to be heard; but it is toward the end of the session, and I do not want to trespass on the time of the committee. If the committee, however, needs any more enlightenment we will have plenty to furnish them.

On February 22, 1911, Hon. Francis Burton Harrison, of New York, appeared before the Committee on Foreign Affairs and made the following statement:

Mr. HARRISON. Mr. Chairman and gentlemen of the committee, I appear in favor of the Parsons resolution calling for a denunciation of the treaty of comity and commerce with Russia of 1832. Gentlemen who have been on this committee in a previous Congress are aware that it is not a perfectly new subject, that in a resolution offered by Mr. Goldfogle, of New York, in the Sixtieth Congress, section 2 of that resolution called for a denunciation of the treaty with Russia, if it were to appear upon further representations by the President to Russia that we would no longer tolerate the discrimination between American citizens on the ground of religious faith, if it were to appear after such announcement by the President that this discrimination still continued, thereupon the President was requested to denounce the treaty with Russia. I understand that the Parsons resolution calls in unqualified terms for the denunciation of this treaty. * * * I am in favor of Mr. Parsons's resolution, that the treaty of 1832 provided that the reciprocal rights given to the subjects of Russia and to citizens of the United States permitted all citizens of the United States while in Russia to enjoy the same rights and privileges that the subjects of Russia had. At that time, I think it is fair to say, there was no considerable body of Jews in the United States, and also it is fair to say that there were practically no persecutions of the Jews in Russia. In other words, the Jewish question was not a live one in 1832. It is evident to me from studying the history of these negotiations that the Jewish question was not in the minds of the commissioners who negotiated the treaty of 1832. Had it been in their minds, I am confident that any Secretary of State who negotiated a treaty which permitted even a misconstruction of this nature by Russia would, with his administration, have been driven from power with the contumely and scorn of the whole United States. The Russians have invented this pretext, based upon their construction of this treaty. According to this pretext they have the right to discriminate between American citizens because American citizens are to have only the same rights that Jewish subjects have, but we had not any such situation as that in mind when the treaty was negotiated, and from the beginning have uniformly denied the right of Russia to make this discrimination, have denied the correctness of that interpretation of the treaty of 1832, and have maintained that all American citizens must be treated alike, without regard to their religious faith.

Mr. GARNER. May I interrupt you?

Mr. HARRISON. Certainly.

Mr. GARNER. What can be done by the denunciation of the treaty any more than the mere suggestion that we do not agree that there should be any discrimination against American citizens?

Mr. HARRISON. The negotiation of a new treaty would be the result of that step, and in that new treaty the rights of American citizens would be properly protected, and it is on that account that I respectfully urge upon this committee the passage of the Parsons resolution.

STATEMENT OF HON. HENRY M. GOLDFOGLE, A REPRESENTATIVE FROM THE STATE OF NEW YORK.

Mr. GOLDFOGLE. Mr. Chairman and gentlemen of the committee, Mr. Harrison very correctly remarked that this question is not new either to this committee or to Congress. In 1902 I introduced a resolution calling upon the Secretary of State to inform the House whether such discriminations as have been stated to this committee to exist actually existed and whether Russia refused to honor the passports of American citizens on account of religious faith. The resolution passed. The Secretary of State replied. He officially appeared to Congress that Russia refused to honor or recognize American passports when presented at her gate by Jewish American citizens.

In 1904 I introduced another resolution calling on the President of the United States to renew negotiations with Russia to the end that proper treaty stipulations

might be obtained from her so that passports would be uniformly honored without regard to the race, religious faith, or creed of the holder. In August, 1904, in accordance with the resolution that had passed the House some months before, Secretary Hay communicated with Mr. McCormick, our ambassador at St. Petersburg. The correspondence that passed between the Secretary of State and Mr. McCormick and between Mr. McCormick and the imperial minister of the Czar in Russia appears in the papers relating to foreign relations of 1904. I would like to have them, with the consent of this committee, printed in the record. I do, however, desire to read one passage from the letter of Mr. McCormick conveying the text of the resolution to the Russian Government. The ambassador says:

"This resolution voices not only the feelings of the people, but also a principle which lies at the foundation of our Government. It is for this reason that the question has been, is, and always will be a live question with us and liable to become acute and be brought forward at some time in such a way as to seriously disturb the friendly relations which have always existed between Russia and the United States."

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Mr. FLOOD. You have delivered several addresses in the House of Representatives which, I think, throw a good deal of light on this subject and, with your consent, I would be glad if you would incorporate those addresses in this hearing.

Mr. GOLDFOGLE. I thank Mr. Flood for that very kind suggestion, and will submit, if it meets with the views of the committee, some of the remarks that I have made in the House on the subject we are now considering. The addresses to which Mr. Flood has referred contain extracts from letters of Mr. Evarts, Mr. Blaine, Mr. Gresham, and, I think, some other of our former Secretaries of State, interpreting the treaty of 1832. As Mr. Harrison has stated, Russia does not agree with our interpretation, and therein lies the difficulty.

Now, to continue the history of congressional action on this subject: In 1909 the matter was again brought before Congress when the joint resolution was introduced by me. It is the one referred to by my colleague, Mr. Harrison. I desire that the House joint resolution be printed in the hearings. (See American Jewish Yearbook, 5670, p. 37.)

The Committee on Foreign Affairs considered that joint resolution and reported it with an amendment. I observe from the printed hearings thus far on this subject that an error in stating the joint resolution and an omission as to its passage in both Houses has occurred. It was stated in the addenda to the remarks of Mr. Parsons that the joint resolution had passed the House of Representatives, leaving the inference that the resolution had not passed the Senate nor been approved by the President. That is a mistake. The resolution, without any preamble, passed both Houses of Congress and was signed by the President on the 4th day of March, 1909. I submit, so it may be printed in the record, a copy of the joint resolution as it passed Congress. (Ibid., p. 38.)

Mr. BENNET. As I understand, my colleague has had the honor of having all the resolutions he has introduced on this subject reported and passed, except as to the last one, where the second section was stricken out?

Mr. GOLDFOGLE. Yes, sir; and the second section of the joint resolution of 1909, as it was introduced, read:

"That a copy of these resolutions be transmitted to the Russian Government with such demand and insistence, and that upon the failure of the Russian Government to abide by its treaty obligations with the Government of the United States and to comply with said demand the President of the United States shall give notice under and pursuant to article 12 of the treaty between the United States and the Emperor of all the Russias, ratified on the 11th day of May, in the year 1832, of the intention of the United States to arrest the operation of said treaty, and thereupon, pursuant to such official notification and at the period fixed after giving such official notification under said article 12, the said treaty and convention between the United States and Russia shall be deemed ended and determined."

The President has, I understand, taken the matter up and is proceeding under the joint resolution.

It is deplorable that Russia dishonors the American passport when its holder is a Jew. It matters not to Russia whether the holder of the passport be a native or a naturalized citizen of our country; in either case Russia refuses to visé the passport, however eminent or respectable our citizen may be, basing her refusal upon the ground of the religious faith of the holder. This is an affront, not to the citizen alone who holds the passport, but to our Government who issues it. The persistency of Russia in declining to heed the repeated requests of our Government to do away with her discriminatory treatment of our citizens calls upon us as a self-respecting Nation to take such action as will tend to compel Russia to respect the integrity of a passport

issued by our Government to a law-abiding citizen regardless of his religious faith or creed.

The question is an American question. It involves the upholding of American principles. When a subject of Russia comes to our country we make no inquiry as to his religious convictions, and, regardless of his creed, whatever it be, we afford him the hospitable shelter of our land and the protection of our laws. Yet, when an American citizen, armed with a passport, bearing the seal of our Government, presents that passport to the Russian authorities he is subjected to an inquiry or inquisition as to his religion, and recognition of our passport is refused when it is found that its holder is an Israelite.

Such a condition has become intolerable; it calls for decided action. It is not only irritating to the very large class of citizens it affects directly, but also to every fair-minded American, who believes, as I do, that the integrity of the American passport must be preserved and upheld. It would not be fair at this time, when each one of us is anxious to go over to the House to attend to the pressing business there, for me to detain the committee longer or to further enlarge upon the subject the resolution before us involves.

I shall avail myself of the kind suggestion made by Mr. Flood to insert in the record some of the remarks that were made by me in the House on various of the resolutions which were passed on. They will give, fully and fairly, my views upon the subject. I thank the committee for its kind attention and consideration.

Mr. BENNET. I understand that you favor the Parsons resolution now pending before the committee?

Mr. GOLDFOGLE. Yes; I favor the taking of such action as will give Russia distinctly and emphatically to understand that America will no longer tolerate her unfair and unjust discrimination.

Mr. BENNET. You think that the treaty should be abrogated?

Mr. GOLDFOGLE. I think the treaty ought to be terminated if the President finds, after continuing his negotiations, that he can not succeed in getting Russia to uniformly recognize the American passport. I want to say in justice of President Taft that I believe he has acted earnestly and energetically under the joint resolution that was passed in 1909.

STATEMENT OF HON. JAMES M. GRAHAM, A REPRESENTATIVE FROM THE STATE OF ILLINOIS.

Mr. GRAHAM. Mr. Chairman, I think it a great blot on our national reputation that we should have, with any nation, a pact which recognizes a distinction between our citizens on the grounds of religion or race. It seems to me to be rare inconsistency. Our Constitution recognizes the equality of all our citizens before the law and prohibits Congress from enacting any laws preferring one religion to another. But in this treaty with Russia the Government claims the treaty of 1832 means that American Jews shall have only such rights in Russia as are accorded by that Government to its own citizens of that faith. The result of this interpretation is that American citizens of the Jewish faith are practically prohibited from visiting or traveling in that country at all.

American Secretaries of State and diplomats have repeatedly endeavored to induce the Russian Government to abandon this construction of the treaty, but without avail. Indeed, it seems useless to longer hope for any change in the attitude of that Government.

What, then, should this Government do in the premises?

Should we continue as a willing party to a treaty which, as the other party interprets it, is a repudiation of our own fundamental law? Shall we, by assisting to its continued enforcement, put ourselves in the absurd position of consenting to a discrimination against some of our citizens by a foreign Government because of their religious opinions?

Surely we can not afford to do that. And since we are unable to get Russia to give the treaty a construction which will make it conform to the Constitution, we can at least save our self-respect and our respect for the Constitution by terminating the treaty altogether.

We can not longer afford to be put in the discreditable position of assenting to the view that some American citizens, because of their religious opinions, are not entitled to the protection of the Constitution.

If we can not induce Russia to consent to grant to American Jews an equality of rights with other American citizens who sojourn in that country, we can at least withdraw from the treaty arrangement and reduce the rights of all our citizens who desire to visit Russia to the same level.

It is quite unnecessary, and indeed quite beside the question, to remind you that men of the Jewish faith constitute a very important element of our population, and reach

the highest eminence in business, in law, in medicine—indeed in all lines of activity—for it is not alone the prominent and successful that the Constitution was ordained to protect. It reaches the poorest and the lowliest as well as the richest and most powerful, and that it should be a reality, a living, vital force should be the determination of every American.

Some day the proud boast of the Roman will be realized in America, and the man who can say, "I am an American citizen," will have a respectful consideration of his rights in any civilized land.

The arrival of that day will be hastened by the termination of this shameful pact.

APPENDIX 4.

THE UNITED STATES PASSPORT AND RUSSIA.[1]

It is the practice throughout the civilized world of one who contemplates leaving his country temporarily, either for business or pleasure, to secure from his government a passport which, giving a description of the bearer, declares him to be a citizen of the country whose passport he bears and entitled to all the rights of such a citizen.

It will doubtless be surprising to many to learn that when an American citizen makes application to our State Department for a passport to Russia he receives in reply a printed circular which contains the following statement:

"The laws of Russia also exclude from Russian territory, except by special permission, all people of the Jewish faith, and while this Government has been endeavoring for years to secure a relaxation of this restriction, it is only proper to warn those who are in the category to which they refer that it has not been able to secure from the Russian Government uniform treatment for all American travelers in Russia without regard to their religious faith or place of birth."

If put on inquiry by this timely warning the Jewish holder of a passport seeks to secure the special permission of the Russian Government to enter Russia by having his passport viséed by a Russian consul, or by some other representative in this country of the Russian Empire, his application is either at once denied or action upon it is postponed from time to time, resulting, if insisted upon, in a denial to grant the permission desired.

There are some minor exceptions to this rule. If the holder of the passport be a banker or the head of a commercial house traveling exclusively on commercial business, he may have his passport viséed on condition that he enters only certain limits of Russian territory and remains for a certain limited period. And in other rare and exceptional cases, after considerable time has elapsed and much humiliation has been endured, he may be permitted for a brief period to enter certain restricted territory. The general rule, however, is that the American passport in the hands of Jewish citizens is not recognized as of any force.

In every other nation in the world the American passport is taken at its face value. In Russia, in the hands of a Jewish citizen, it is dishonored paper.

It is a principle of international law that as a general rule each nation has the right to determine for itself whom it will admit within its borders, as an individual has the right to determine whom he will admit into his house.

In all intercourse between nations, the two nations concerned must settle the terms upon which such intercourse will be permitted. One nation can not force another nation into a treaty of commerce with it any more than one man can force another man into a contract with him. (Woolsey's International Law, sec. 25.)

In determining the question, therefore, as to whether Russia, in refusing to admit the American Jew into her territory, is violating any legal obligation, we must examine the treaties between the two countries, and determine from those treaties what the obligation on the part of Russia is with respect to the American passport.

Has Russia by treaty agreed to recognize such passports? If she has not, then she is not bound to recognize them. If she has so agreed, then she has broken her obligation and the only remaining question for America to determine is one of remedy.

There are a number (perhaps 12) of treaties between this country and Russia, but the question I am examining this evening turns upon the construction of the treaty of 1832, and more particularly upon Article I of that treaty.

That article reads as follows:

"There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party, wherever foreign commerce is permitted. They shall be at liberty to sojourn

[1] A paper by Hon. Rufus B. Smith read before the Temple Club of Congregation B'nai Israel, Cincinnati, Apr. 5, 1911.

and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

In determining the construction of this article it is well to bear in mind the rule of construction of treaties declared by the Supreme Court of the United States:[1]

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It is important, too, to bear in mind in this connection the familiar rule that the language of a contract is to be construed with reference to the surrounding circumstances at the time of its execution.

We turn now to an inquiry as to what intention the high contracting parties had in mind to express when Article I, of the treaty of 1832, was drawn.

In view of the nature of our Government, the letter of our Constitution, and the spirit of our institutions, it is impossible to doubt for a moment that by Article I, of the treaty of 1832, America intended that the rights granted by that article should extend equally to every citizen of America, without discrimination on account of race, creed, or religion.

Absolute freedom of religious belief is one of the corner stones of our Republic. Among the great rights which the people of this Nation possess it ranks among the first; and the spirit of religious freedom has written into our National Constitution two great principles, viz: (1) No religious test shall ever be required as a qualification to any office or public trust under the United States, and (2) Congress shall make no law respecting the establishment of religion or permitting the free exercise thereof.

It is then simply impossible to believe that in 1832, when the treaty was negotiated by the President of the United States and confirmed by the Senate of the United States, that either the President or Senate for a moment entertained the idea that the treaty gave a right to Russia to discriminate against any class of American citizens on account of its religious belief. Every Secretary of State since 1860, when this question first came up for discussion, including Mr. Evarts, Mr. Blaine, Mr. Bayard, and Mr. Olney, have repudiated any such supposed intention upon the part of the United States in executing the treaty of 1832, and have emphatically insisted that it was the intention of the United States in signing the treaty that all citizens of the United States should receive equal treatment under it.

In one case, that of Mr. Adolph Kutner, concerning whose religious faith, among other things, the Russian Government made inquiry, Mr. Blaine said:

"In reply, the representative of the United States was instructed that in conveying the inquiry of the imperial office to Mr. Kutner the Department of State found itself unable to interrogate him as to the religion professed by him, inasmuch as the Constitution of the United States prohibits the application of any religious test whatever in respect to our citizens. In dealing with all this class of cases the department has scrupulously abstained from taking official cognizance of the religious faith of any citizen. It can not inquire into it as a fact, and it can neither affirm or deny that an individual holds a particular creed."

Neither at the time the treaty was signed nor for a period of nearly 30 years afterwards was the United States ever put upon inquiry as to whether Russia might not give a construction to the treaty different from that given to it by the United States. As is shown in a letter written by Mr. Blaine as Secretary to Mr. Foster, our minister to Russia, in which he reviews historically the Russian legislation and policy with respect to foreigners entering Russia, the United States had no reason to suspect that a construction would ever be put upon the treaty by Russia by which American citizens of a certain religious belief would be excluded from the protection of the treaty.

Furthermore, our own acts under the treaty by which we have granted to every Russian coming into this country all the rights stipulated for in the treaty, irrespective of any creed or religion, are the highest evidence of our construction of the treaty and of our intention in entering into it.

Let us examine the treaty now from the Russian point of view.

The Russian contention is based mainly upon the language of the latter part of Article I, and the contention is that the inhabitants of each country have only those rights in the other country that the natives of such other country enjoy, and that therefore, as by the laws of Russia the Russian Jews are confined to certain limited territories and certain occupations, and subject to many inquisitorial and persecuting enactments, that an American Jew who goes to Russia is entitled to only these limited rights to which the native Jew is entitled.

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[1] Judge Smith here quotes the Supreme Court decisions already given in Mr. Marshall's address, ante, p. 78.

In seeking the proper construction of this treaty, in addition to the principles of construction declared by the Supreme Court of the United States, to which I have previously referred, viz, that treaties are to be given a liberal and not a narrow construction, and that they should be construed in a spirit of uberrima fides, I wish to direct attention to two other principles of construction applicable to all written instruments:

1. A written instrument must be so construed as to give force and effect to all its parts, so that the instrument when finally read shall be a consistent whole; and

2. An instrument is not to be given a certain construction simply because its language may be susceptible of such a construction. The true construction of an instrument is one that, taking into consideration the language of the instrument, the object in view, and the surrounding circumstances, gives effect to the intention of the parties.

In examining Russia's construction of the treaty, it is important to bear in mind the language of Article I.

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The first clause of the article, then, declares that "There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation." The reciprocal liberty here stipulated for necessarily means that liberty of commerce and navigation are given alike to both parties; and that citizens of the United States have the same liberty of commerce and navigation with respect to Russia that citizens of Russia have with respect to the United States; and unless modified in other parts of the article or treaty that liberty is necessarily free and without restriction.

Then follow the two remaining clauses of the article, which undoubtedly were intended to make certain the rights granted in the first clause by a more particular definition of them. The first of these two remaining clauses grants to the citizens of each territory the right to enter the territory of the other, and the last clause define their rights in the territory when it has been entered. In the first of these clauses it is declared that "The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party, wherever foreign commerce is permitted." Here undoubtedly is granted beyond question, without distinction and without discrimination, the right to every citizen of the one territory to enter the territory of the other "wherever foreign commerce is permitted."

Upon what ground then can Russia refuse admission into its territory of citizens of the United States according to any religious test which it may arbitrarily select? Its refusal to allow American citizens of Jewish faith to enter its territory is clearly in violation of the express language of this clause of the treaty.

Unable to find any support for its position in the two clauses of Article I, to which I have referred, the Russian diplomats have made their last stand on the last clause of the article. * * * It will be observed that this clause has no reference to the right of entry into the country; that right is guaranteed in the two preceding clauses. It relates only to the rights of the person after entry has been made. If this clause is taken by itself, and adherence given to the mere letter of it, aside from the purpose in view when it was drawn, and the permissible intent of our Government, aside from the other and the controlling clauses in the article, aside from the surrounding circumstances at the time the treaty was executed, and aside from the practical construction put upon the clause by both parties for a period of 30 years, it might be argued that the clause is susceptible of the construction which Russia puts upon it. But it is impossible to so construe this instrument ignoring the other consideration to which I have just referred and ignoring the rules of construction of written instruments and especially of treaties to which I have called attention.

The meaning of this clause is perfectly plain. Clauses of similar import are, as a rule, found in all treaties which provide for reciprocal intercourse between countries. They are intended to make the laws of the respective countries applicable in a general way to all who enter the country. The foreigner is not to be above the law of the country into which he may come. If murder or larceny is a crime in such country and he commits murder or larceny, he is a criminal. Contracts made in Russia may be governed by the Russian law, and the commercial customs and usages of the country would be applicable. Ordinary health laws or police regulations, so long as they do not interfere with fundamental rights, would be enforceable. Many other illustrations could be given of this principle, but they are unnecessary. But it is a well-settled principle of international law that a local law can not override the obligation of a treaty. If it does, then the treaty is necessarily void, for it is impossible to carry out its provisions. In 1881 Mr. Blaine, in his letter to Mr. Foster, said:

"It would be, in the judgment of this Government, absolutely inadmissible that a domestic law restraining native Hebrews from residence in certain parts of the Empire might operate to hinder an American citizen, whether alleged or known to profess the Hebrew faith, from disposing of his property or taking possession thereof

for himself (subject only to the laws of alien inheritance), or being heard in person by the courts which, under Russian law, may be called upon to decide matters to which he is necessarily a party. The case would clearly be one in which the obligation of a treaty is supreme and where the local law must yield. These questions of the conflict of local law and international treaty stipulations are among the most common which have engaged the attention of publicists, and it is their concurrent judgment that where a treaty creates a privilege for aliens in express terms it can not be limited by the operation of domestic law without a serious breach of good faith which governs the intercourse of nations. So long as such a conventional engagement in favor of the citizens of another State exists, the law governing natives in like cases is manifestly inapplicable."

It never could have been the intention of either Russia or America in the treaty of 1832 that local laws could be passed which by force of the last clause of Article I entirely nullified the first two clauses of the same article, and as Russia in 1832 understood the great principle of our Government, of the separation of church and state, and the President and Senate could not have forgotten that principle, it is impossible to suppose that either contracting party to the treaty of 1832 supposed that either party could deny the privileges of the treaty to the citizens of either country on the ground that their religious faith did not meet the approval of the country into which they sought entrance. * * * Furthermore, it is impossible to reconcile the Russian construction of the last clause of Article I, with the two preceding clauses of the same article.

How can there be "reciprocal liberty of commerce and navigation" between the territories of the high contracting parties if a large part of the American public, solely on the ground of religious faith, are not permitted to enter the country. And how can this latter clause be used to nullify the American passport on the ground of the religious faith of the holder when the preceding clause expressly declares that "the inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each other, wherever foreign commerce is permitted"?

Mr. Blaine in his letter of 1881 to Mr. Foster, the American Minister to Russia, to which I will again refer, has shown, too, that in 1832 the policy of Russia was to invite foreigners into that country, and that policy must have been one of the surrounding circumstances which it is presumed was in the mind of both of the contracting parties at the time the treaty was signed.

It is a familiar principle of law that where an ambiguity arises in the terms of a contract the practical construction the parties have put upon the contract carried out continuously for a period of time, beginning with the time of its execution, affords the highest evidence of the intention of the parties at the time it was executed and makes clear a term of the contract, which in the absence of a practical operation under it might be subject to the charge of ambiguity. From 1832 up to 1860, a period of nearly 30 years, no question was raised as to the validity of American passports in Russia. In his letter to Mr. Foster, our minister to Russia, in 1881, Mr. Blaine, as Secretary of State, speaking of a period many years prior to 1832, declared that—

"From this time (1817) down to 1860 I can find no trace of the enforcement, especially against American citizens, of the construction against Jewish travel and residence which are stated to have existed when our treaty with Russia was signed. It is a significant circumstance that the acknowledged authorities on private international law, writing during this period upon the legislation of all Europe as affecting the persons and rights of aliens, make no reference to such disabilities."

Is not this practical construction of the treaty put upon it by both parties for nearly 30 years the very highest evidence as to the intention of those who framed it?

The conclusion I have reached as to the proper construction of this treaty is supported by the conclusion reached by the Committee on Foreign Affairs of the House of Representatives in 1892. In its report on this question to the House of Representatives in 1892, that committee, among other things, said:

"Our Government can make no distinction based on creeds or birthplaces of its citizens, nor can it permit such distinction to be made by foreign powers. Not the religion nor race of a person but his American citizenship is the grand test of the treatment he shall receive and the rights he shall enjoy in other countries. * * *

"This treaty stipulation between civilized nations would seem to have but one meaning, and to admit of no discrimination in favor of some and against other citizens of either of the high contracting parties, but what claim Russia may make under the clause in regard to 'security and protection' and the 'condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulation in force concerning commerce' is the question.

"Is the 'security and protection' accorded to a native Russian Jew the 'security and protection' to be accorded to an American citizen of Jewish faith? Are the

restrictions placed on the Russian Jew as to commerce part of the 'laws and ordinances' to be submitted to and to be regarded under the treaty as 'regulations in force concerning commerce'? These are problems of serious concern to the American Jews, who, as men of commercial pursuits, feel that all avenues of trade should be open to them and as American citizens that they should stand abroad as they do at home on an exact equality with other children of the Republic.

"The committee are certain that a discrimination can not legally be made against them, and that if it is made, practically it would be a violation of the treaty and an unfriendly act toward the United States on the part of Russia."

As the refusal of Russia to recognize the American passport is a violation of the treaty of 1832, the remaining question is one of remedy. What action should the United States take in the matter? It is true that the discrimination is not against America only, but is also enforced against other countries, as, for instance, France and England. But America is in a different position from the European powers. The complications of European politics and diplomacy make it almost impossible for any European nationality to make an issue with Russia upon this question. For the last 20 years France has had a political alliance with Russia of great advantage to her, insuring her against the other powers of Europe, and England finds it necessary to expend her energy and diplomatic resources in preventing the encroachment of Russia in the Far East.

But the United States is not hampered by the complicated nature of European politics. There is no reason except a purely commercial one which prevents the assertion of our rights and an insistance upon the vindication of American principles. If the violation of the treaty were in a minor matter or in a matter not of great importance or not involving the violation of one of the great principles of this Nation, such violation, as in that of any other contract, might be overlooked in view of the greater benefits which followed the continuance of the treaty.

But to continue with the treaty of 1832, accepting Russia's construction of the treaty is equivalent to executing a treaty which contained in it a provision such as Russia by construction reads into the treaty of 1832; and a treaty which by its terms expressly excluded from its benefits persons of certain religious faiths would be contrary to one of the great fundamental principles of the United States, which recognizes as between its citizens no discrimination based solely on religious grounds. By such a treaty, too, the United States becomes a party to a convention which places a stigma upon a large part of its citizens, however honorable and reputable they may be. The construction, therefore, which Russia puts upon the treaty is necessarily an affront to American citizenship. For as citizens of this great Republic we stand alike before the law, and an affront to a part is an affront to all. In contemplation of law we are one people. Unless we are willing to abandon that principle let us stand or fall together.

To the suggestion that the United States should direct the attention of Russia to its violation of the treaty, before abrogating it, in the hope that such diplomatic action may result in the adoption by Russia of a different construction, it is sufficient to say that the Department of State has repeatedly made such protests, but without avail. The construction contended for by the United States was insisted upon as far back as 1867, by Mr. Cassius M. Clay, our minister to Russia, and protests have been made by Secretaries Blaine, Evarts, Bayard, and Olney.

In the Rosenstrauss case in 1867, Mr. Clay in addressing the Russian authorities said:

"That he admits Mr. Rosenstrauss is a Jew, but as all religions are alike tolerated in the United States, they claim equal protection for all their citizens without regard to religious principles."

In 1880 Mr. Evarts, in letters to Mr. Foster, our minister to Russia, intended for presentation to the Russian Government, among other things, said:

"In reply, I have to observe that in the presence of this fact, that an American citizen has been ordered to leave Russia on no other ground than that he is the professor of a particular creed, or the holder of certain religious views, it becomes the duty of the Government of the United States, which impartially seeks to protect all its citizens, of whatever origin or faith, solemnly, but with all respect to the Government of his Majesty, to protest. * * *

"Notwithstanding this aspect of the matter, the United States could not fail to look upon the expulsion of one of its citizens from Russia on the simple ground of his religious ideas or convictions, except as a grievance akin to that which Russia would doubtless find in the expulsion of one of her own citizens from the United States on the ground of his attachment to the faith of his fathers."

In 1881, in another letter to Mr. Foster, he said:

"I have observed, however, that in some of your conversations and writings with the foreign office you give prominence to the natural American sympathy with oppressed Jews elsewhere as a motive for our solicitude as to the treatment of Jews in Russia.

"Such solicitude might very properly exist; but in your presentation of the facts you should be careful to impress that we ask treaty treatment for our aggrieved citizens, not because they are Jews, but because they are Americans. Russia's treatment of her own Jews, or of other foreign Jews resorting thither, may, in determinate cases, attract the sympathy of the American people, but the aim of the Government of the United States is the specific one of protecting its own citizens. If the hardships to which Russian and foreign Jews are subjected involves our citizens, we think we have just ground for remonstrance and expectancy of better treatment.

"This Government does not know, or inquire, the religion of the American citizens it protects. It can not take cognizance of the methods by which the Russian authorities may arrive at the conclusion or conjecture that any given American citizen professes the Israelitish faith."

In the same year, Mr. Blaine in a letter to our minister to Russia, said:

"You can further advise him (the Russian minister of foreign affairs) that we can make no new treaty with Russia, nor accept any construction of our existing treaty which shall discriminate against any class of American citizens on account of their religious faith."

In 1886 Secretary of State Bayard said:

"The Government of the Czar is fully aware that we do not admit the principle of discriminating against any American citizens because of their religious tenets."

In 1896 Secretary Olney, in a report to President Cleveland, said:

"The published correspondence for a number of years back has shown the persistence of the United States in endeavoring to obtain for its citizens, whether native or naturalized, and irrespective of their faith, the equality of privilege and treatment stipulated for all American citizens in Russia by existing treaties. Holding to the old doctrine of perpetual allegiance; refusing to lessen its authority by concluding any treaty recognizing the naturalization of a Russian subject without prior imperial consent; asserting the extreme right to punish a naturalized Russian on return to his native jurisdiction, not merely for unauthorized emigration, but also specifically for the unpermitted acquisition of a foreign citizenship; and sedulously applying at home and through the official act of its agents abroad, to all persons of the Jewish belief, the stern restrictions enjoined by Russian law, the Government of Russia takes ground not admitting of acquiescence by the United States, because at variance with the character of our institutions, the sentiments of our people, the provisions of our statutes, and the tendencies of modern international comity."

Resolutions have been passed by the House of Representatives or the Senate, or both, in 1882, 1883, 1884, 1890, 1902, 1904, and 1909. The resolution of 1909, passed by both Houses of Congress and approved by the President, is typical of these resolutions. It reads as follows:

"Whereas it is alleged that the Government of Russia has continued up to the present time to refuse to visé, recognize, or honor passports presented to its authorities, issued by the American Government to American citizens, on the ground that the holders thereof were of the Jewish faith: Therefore be it

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and is hereby, directed to renew negotiations with the Government of Russia to secure, by treaty or otherwise, uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States, in order that all American citizens shall have equal freedom of travel and sojourn in such country without regard to race, creed, or religious faith, including a provision that the honoring or viséing of passports when duly issued and held by citizens of the United States shall not be withheld because or on account of the race, creed, or religious faith of their holders."

Both the Republican and Democratic Parties in their national conventions have insisted upon the equal treatment of all Americans under our treaties, having in mind the violation of the treaty of 1832.

* * * * * * *

"The present treaty shall continue in force until the first day of January in the year of our Lord one thousand eight hundred and thirty-nine, and if one year before that day one of the high contracting parties shall not have announced to the other by an official notification its intention to arrest the operation thereof, this treaty shall remain obligatory one year beyond that day, and so on until the expiration of the year, which shall commence after the date of a similar notification."

In other words, the treaty can be abrogated upon giving one year's notice. This notice should be given; and if, as a result of such notice, Russia refuses to negotiate a supplemental treaty by which the rights of all American citizens are recognized, without discrimination, upon religious grounds, the treaty should be terminated.

When this policy is advocated inquiry is at once made as to where it would leave this country in its relations with Russia. How much will it cost us to do what is right?

How much will it cost us to adhere to the principles of the Republic? Neither commercial nor diplomatic relations between nations are dependent upon the existence of a treaty between them. With the abrogation of the treaty we would go back to the position we occupied in 1832, before the treaty was executed. It is true a liberal treaty tends to foster commercial relations between two countries, and an illiberal treaty to interfere with them; and a properly framed treaty undoubtedly removes many artificial barriers to trade, whose technical interference in the absence of a treaty is annoying, and if you will, in a measure obstructive of commerce. But no one can doubt that if we have anything to sell which Russia wants, she will buy from us; and that if she has anything to sell which we are willing to buy, she will sell it to us. Compared to our vast commerce of imports and exports those with Russia are comparatively insignificant. The total imports are about $18,000,000, and the exports about $17,000,000. These figures, of course, do not represent profits. They merely represent the aggregate of purchase and sales. The profits in all probability would not exceed 10 per cent of the aggregate amount, which would be about $3,500,000.

We have, too, in the maximum clause of the Payne tariff law, which will compel Russia's imports of $18,000,000 to pay an extra duty of 25 per cent, a weapon to be considered. Our imports consist mostly of hides, furs, leather, and raw materials, and our exports of agricultural machinery, sewing machines, and other manufactured articles. A number of American trusts are now operating in Russia and are engaged in carrying on manufactories there, as I am informed, under Russian charters. Among these trusts are the Harvester Trust, the Singer Sewing Machine Co., and the Westinghouse Co. I do not believe their operations would be interfered with, as they are carrying on business under the protection of charters granted by the Russian Government.

Whenever Russia admitted within her boundaries any American citizen, it would owe protection to him and his property. A violation of his rights in that regard would be a proper ground for intervention by our Government. That right does not depend upon a treaty.

But the question involved, as I have stated, is a much greater one than any business question. The question is whether we propose to be true to one of the great principles of this Government. or whether we are to barter it away for a mess of pottage. Are we to place the dollar above the man? Are we to consent to a stigma being placed on American citizenship if only we can make a few dollars out of it, or are we to say to the world that every citizen of honest character and good report shall receive equal treatment at the hands of foreign nations, and that an insult to one class is an insult to all? Every great movement in the world has been led by some man or men or by some people or nation who placed principle above material considerations. This very nation grew out of a revolution which refused to pay a small stamp tax because its payment involved a great principle. Emerson has somewhere said that in the course of time the whole world moves around to the man who stands true. If this aphorism is true of men it is true of nations, which are but aggregations of men. But whether true or not, let us be true to ourselves and our principles, and true to those among us upon whom it is sought to place an undeserved stigma, and let the consequences take care of themselves.

The passport question to Russia is generally regarded as a Jewish question, but it is not entirely so. For not only the Jew, but also Catholic priests and Protestant missionaries are excluded from Russia. But as I have endeavored to point out, it is not a Jewish or a Catholic or a Protestant question, but a question of American citizenship that is involved. If, however, it were solely a Jewish question, I should not shrink from meeting it, nor would my attitude in regard to it be in the least changed. For as I have said a discrimination in a treaty against a part of our people on religious grounds is contrary to one of the fundamental principles of our Government. If in this case it happens to be the Jew, to-morrow it may be the Catholic, and the day after the Protestant, and the day after that some other class. We can not admit such a discrimination without being false to American citizenship. The sanctity and integrity of that citizenship must be preserved at whatever cost.

The day of compulsion, by whatever peaceful means it may seek to accomplish its purpose in forcing men to abandon their religious views, and the day of discrimination against men because of a difference in religious opinion is passing away in civilized countries as certainly as the rack and thumbscrew of other days have passed away. A wider tolerance in religious matters marks the steady advance of a higher justice and a more enlightened public opinion.

Let the treaty with Russia be abrogated. No other course is open to the United States. If such a course is followed, its moral effect can not be calculated, for in the end no nation can afford to affront the enlightened moral sentiment of the world. And if this Russian passport question has become a Jewish question, let it be so, and let those of us who are not Jews show that American citizenship when it covers the Jew is as sacred as when it covers the Christian.

APPENDIX III.

BRIEF ON TERMINATION OF TREATIES.

By HERBERT FRIEDENWALD, Ph. D.,[1]

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The Constitution, Article II, section 2, clause 2, provides that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur," and in Article VI, section 2, that the "Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." But the Constitution is silent as to the authority in whom is lodged the power to terminate, abrogate, or repeal treaties.

Under the terms of the Constitution, many treaties have been negotiated by the President, ratified by the Senate, and duly proclaimed. They have thus become part of the supreme law of the land and as such appear among the United States statutes.

The earlier treaties contained no provisions for their termination, but since 1826 it has been the custom to include such provisions, the time of notice varying from six months to two years.

According to Wharton, treaties "may be modified or abrogated under the following circumstances:

"(1) When the parties mutually consent.
"(2) When continuance is conditioned upon terms which no longer exist.
"(3) When either party refuses to perform a material stipulation.
"(4) When all the material stipulations have been performed.
"(5) When a party having the option elects to withdraw.
"(6) When performance becomes physically or morally impossible.
"(7) When a state of things which was the basis of the treaty and one of its tacit conditions no longer exists."[2]

HOW TREATIES ARE TERMINATED BY THE UNITED STATES.

I. By act of Congress.
II. By joint resolution authorizing or requesting the President to give notice.
III. By joint resolution at the request or suggestion of the President.
IV. By resolution of the Senate authorizing the President to give notice.
V. By notice from the President subsequently "adopted and ratified" by a joint resolution.
VI. By notice from the President without any prior or subsequent act or resolution of Congress.
VII. By a new treaty superseding one of prior date.

I. *By act of Congress.*

In this connection the following by John Jay, in No. 64 of the Federalist, is of interest:

"They who make laws may without doubt amend or repeal them; and it will not be disputed that they who make treaties may alter or cancel them."[3]

[1] See Crandall, Treaties, their making and enforcement. Columbia University, New York, 1904.
[2] Moore, Digest of International Law, Vol. V, p. 3, 9.
[3] Lodge's Federalist, p. 400.

And the following extract from a letter of Madison is pertinent:[1]

"Treaties, as I understand the Constitution, are made supreme over the constitutions and laws of the particular States, and, like a subsequent law of the United States, over preexisting laws of the United States; provided, however, that the treaty be within the prerogative of making treaties, which, no doubt, has certain limits.

"That the contracting parties can annul the treaty, can not, I presume, be questioned, the same authority precisely being exercised in annulling as in making a treaty.

"That a breach on one side (even of a single article, each being considered as a condition of every other article) discharge the other, is as little questionable; but with this reservation, that the other side is at liberty to take advantage or not of the breach, as dissolving the treaty. Hence, I infer that the treaty with Great Britain, which has not been annulled by mutual consent, must be regarded as in full force by all on whom its execution in the United States depends, until it shall be declared by the party to whom a right has accrued by the breach of the other party to declare, that advantage is taken of the breach and the treaty is annulled accordingly. In case it should be advisable to take advantage of the adverse breach, a question may perhaps be started, whether the power vested by the Constitution with respect to treaties in the President and Senate makes them the competent judges, or whether as the treaty is a law, the whole legislature are to judge of its annulment, or whether, in case the President and Senate be competent in ordinary treaties, the legislative authority be requisite to annul a treaty of peace, as being equivalent to a declaration of war, to which that authority alone, by our Constitution, is competent."

Also Judge Iredell, in 1796, when it was "argued that the treaty of peace between the United States and Great Britain of 1783 was to be considered by the courts as suspended or abrogated by Great Britain's failure to execute certain parts of it, said:[2]

"It is a part of the law of nations that if a treaty be violated by one party, it is at the option of the other party, if innocent, to declare, in consequence of the breach, that the treaty is void. If Congress, therefore (who I conceive alone have such authority under the Government), shall make such a declaration * * * I shall deem it my duty to regard the treaty as void, * * * But the same law of nations tells me that until that declaration is made, I must regard it (in the language of the law) valid and obligatory."

Similarly, when the question of abrogating the treaty of 1798 with France was under discussion in Congress,[3] Albert Gallatin said he knew of no precedent of a legislature repealing a treaty, and as it was a peculiar act it must be justified by a preamble, as it is not sufficient to say merely that a treaty is abrogated because it has been violated.

Legislative abrogation or termination has been accomplished by four methods, as follows:

"First. Either by a formal resolution or act of Congress approved by the President, or, in case of his refusal to approve it, passed over his veto by two-thirds of both Houses, in which case it becomes the latest expression of the legislative department of the Government, and therefore the supreme law of the land, and the executive department is bound to carry out the wishes of the legislative in express terms.[4]

"Second. By legislation, not abrogating the treaty in terms, but terminating the relations existing thereunder, or rendering them impossible of continuance, by enacting legislation hostile thereto, or conflicting therewith, and which may supersede the treaty as to the special stipulations affected, or in effect abrogate it altogether.[5]

"Third. By legislation which, while it does not directly in terms abrogate the treaty in whole or in part, * * * so conflicts therewith that the doctrine of repeal by implication applies thereto. * * *[6]

"Fourth. By a declaration of war.[7]"

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[1] Mr. Madison to Mr. Pendleton, Jan. 2, 1791. VI Hunt's Madison, pp. 23-24.
[2] Moore's Digest, Vol. V, p. 320, quoting Ware *v.* Hylton (1796), 3 Dallas, 199, 261.
[3] Annals of Congress, 1797-99, pp. 2120, 23, 26.
[4] Refers to statutes of 1789 and 1883, abrogating treaties with France and Great Britain.
[5] Chinese-exclusion laws best examples of statutes of this class.
[6] Refers to Chinese-exclusion cases.
[7] Treaty-making powers of the United States, C. H. Butler. Banks Law Pub. Co., 21 Murray Street, N. Y., 1902.

The only instance in our history of the abrogation of a treaty by special act of Congress was in July, 1798, when the treaty with France was abrogated in the following terms:[1]

"Whereas the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government; and the just claims of the United States for the reparation of the injuries so committed have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations have been repelled with indignity; and whereas, under authority of the French Government, there is yet pursued against the United States a system of predatory violence, infracting the said treaties and hostile to the laws of a free and independent nation:

"*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled*, That the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States.

"Approved, July, 1798."

As France refused to regard this act as valid and declined to recognize any claims arising under it, the United States "in the end purchased a release from the obligations of the treaties with the relinquishment of the claims of its citizens, for the payment of which it thus became liable."[2] These formed the famous French spoliation claims.

But there are in our history many instances of what is known as "implied revocation or repeal" by the termination of treaties by later statutes and of statutes by later treaties. (Moore, V, 364–370.) Of the former, the Head Money cases, the Chinese-exclusion cases, and the tariff acts are the most significant examples. In this connection, the remarks of the present Secretary of State, in 1901, when Attorney General, are pertinent:

"A treaty duly ratified is as much the supreme law of the land as a statute. The latter expression of the lawgivers will replace preceding law if inconsistent or repugnant, even if there is not an express repeal. While repeals by implication are not favored where a later law entirely substitutes new provisions for the scheme of the earlier law, it is displaced by the later statute. (Knox, At. Gen., Oct. 10, 1901, 23 Op., 545, affirming 21 Op., 347, and holding that Art. II of the convention with China of Dec. 8, 1894, repealed a part of sec. 7 of the act of Dec. 13, 1888, 25 Stat., 476, assuming that the act was in force—a question reserved in Li Sing *v.* United States, 180 U. S., 486, 488, 490, where it was held that, without regard to the question whether the act ever became effective, sec. 12 could not be considered as in force.)"

Judge Story (sec. 1838) also states that treaties—

"May be canceled or abrogated by the nation upon * * * suitable occasions; * * * they are subject to the legislative process, and may be repealed, like other laws, at its pleasure."

And in connection with the termination of the treaty with Denmark of 1826, Buchanan, in 1848, when Secretary of State, said:

"It is probable that two years might elapse before the existing convention could be terminated, as an act must first pass Congress to enable the President to give the required notice, after which a year must expire before it could be rendered effectual."

There is therefore no doubt of the full authority and power of Congress to abrogate, repeal, or terminate a treaty in such manner as it deems fitting and necessary.

II. *By joint resolution authorizing or requesting the President to act.*

This is the more usual method of terminating treaties and has been resorted to on three instances, as follows:

1. The termination of the reciprocity treaty with Great Britain of June 5, 1854, by a joint resolution of January 18, 1865:[3]

"JOINT RESOLUTION Providing for the termination of the reciprocity treaty of fifth June, eighteen hundred and fifty-four, between the United States and Great Britain.[4]

"Whereas it is provided in the reciprocity treaty concluded at Washington the fifth of June, eighteen hundred and fifty-four, between the United States of the one part, and the United Kingdom of Great Britain and Ireland, of the other part, that this treaty 'shall remain in force for ten years from the date at which it may come into

[1] 1 Stat. L., 578.
[2] Moore, 5, 357–8.
[3] 13 Stat. L., 566.
[4] 38th Cong., 2d sess., Jan. 18, 1865, resolution 6.

operation, and, further, until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same,' and; whereas it appears by a proclamation of the President of the United States, bearing date sixteenth of March, eighteen hundred and fifty-five, that the treaty came into operation on that day; and whereas further, it is no longer for the interests of the United States to continue the same in force; therefore

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That notice be given of the termination of the reciprocity treaty, according to the provisions therein contained for the termination of the same; and the President of the United States is hereby charged with the communication of such notice to the Government of the United Kingdom of Great Britain and Ireland.

"Approved January 18, 1865."

2. The termination of the treaty of July 17, 1858, with Belgium, by joint resolution of June 17, 1874, as follows:[1]

"Joint Resolution Providing for the termination of the treaty between the United States and His Majesty the King of the Belgians, concluded at Washington, July seventeenth, eighteen hundred and fifty-eight.

"Whereas, it is provided by the seventeenth article of the treaty between the United States of America, on the one part, and His Majesty the King of the Belgians, on the other part, concluded at Washington on the seventeenth day of July anno Domini eighteen hundred and fifty-eight, that 'the present treaty shall be in force during ten years from the date of the exchange of ratifications, and until the expiration of twelve months after either of the high contracting parties shall have announced to the other its intention to terminate the operation thereof, each party reserving to itself the right of making such declaration to the other at the end of the ten years above mentioned, and it is agreed that, after the expiration of the twelve months' prolongation accorded on both sides, this treaty and all its stipulations shall cease to be of force,' and

"Whereas, it is no longer for the interest of the United States to continue the said treaty, in force: Therefore,

"*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled*, That notice be given of the termination of said treaty, according to the provisions of the said seventeenth article thereof for such termination, and the President of the United States is hereby authorized to communicate such notice to the Government of the Kingdom of Belgium.

"Approved June 17, 1874."

3. And the termination of certain provisions of the treaty of Washington of 1871 with Great Britain by joint resolution of March 3, 1883, which took effect July 1, 1885:[2]

"JOINT RESOLUTION Providing for the termination of articles numbered eighteen to twenty-five, inclusive, and article numbered thirty of the treaty between the United States of America and Her Britannic Majesty, concluded at Washington, May eighth, eighteen hundred and seventy-one.

"*Resolved by the Senate and House of Representatives of the United States in Congress assembled*, That in the judgment of Congress the provision of articles numbered eighteen to twenty-five, inclusive, and of article thirty of the treaty between the United States and Her Britannic Majesty, for an amicable settlement of all causes of difference between the two countries, concluded at Washington on the eighth day of May, anno Domini, eighteen hundred and seventy-one, ought to be terminated at the earliest possible time; and be no longer in force; and to this end the President be, and he hereby is, directed to give notice to the Government of her Britannic Majesty that the provisions of each and every of the articles aforesaid will terminate and be of no force on the expiration of two years next after the time of giving such notice.

"SEC. 2. That the President be, and he hereby is, directed to give or communicate to the Government of Her Britannic Majesty such notice of such termination on the first day of July, anno Domini, eighteen hundred and eighty-three, or as soon thereafter as may be.

"SEC. 3. That on and after the expiration of the two years' time required by said treaty, each and every of said articles shall be deemed and held to have expired and be of no force and effect, and that every department of the Government of the United States shall execute the laws of the United States (in the premises) in the same manner and to the same effect as if said articles had never been in force; and the Act of Con-

[1] XVIII Stat. L. 287, 43d Cong., 1st sess., resolution 10. June 17, 1874.
[2] 22 Stat. L., 641.

gress approved March first, anno Domini, eighteen hundred and seventy-three, entitled 'An act to carry into effect the provisions of the treaty between the United States and Great Britain,' signed in the city of Washington, the eighth day of May, eighteen hundred and seventy-one, relating to the fisheries so far as it relates to the article of said treaty so to be terminated shall be and stand repealed and be of no force on and after the time of the expiration of said two years.

"Approved March 3, 1883."

III. By joint resolution at the request or suggestion of the President.

The unsatisfactory results following the joint occupation of Oregon by the United States and Great Britain led President Polk in his message of December 2, 1845[1] to request Congress to give him the power, by appropriate legislation, to give Great Britain the one year's notice of a desire to terminate the treaty as required by the provisions of that treaty. Accordingly, Congress passed the following resolution, approved April 27, 1846:

JOINT RESOLUTION Concerning Oregon Territory.[2]

Whereas, by the convention concluded the twentieth day of October, eighteen hundred and eighteen, between the United States of America and the King of the United Kingdom of Great Britain and Ireland for the period of ten years, and afterwards indefinitely extended and continued in force by another convention of the same parties, concluded the sixth day of August, in the year of our Lord one thousand eight hundred and twenty-seven, it was agreed that any country that may be claimed by either party on the northwest coast of America, westward of the Stony or Rocky Mountains, now commonly called the Oregon Territory, should, together with its harbors, bays, creeks and the navigation of all rivers within the same, be "free and open" to the vessels, citizens, and subjects of the two parties; but without prejudice to any claim which either of the parties might have to any part of said country; and with this further provision, in the second article of said convention of the sixth of August, eighteen hundred and twenty-seven, that either party might abrogate and annul said convention on giving due notice of twelve months to the other contracting party;

'And whereas, it it has now become desirable that the respective claims of the United States and Great Britain should be definitely settled, and that said territory may no longer than need be remain subject to the evil consequences of the divided allegiance of its American and British population, and of the confusion and conflict of national jurisdictions, dangerous to the cherished peace and good understanding of the two countries;

"With a view, therefore, that steps be taken for the abrogation of the said convention of the sixth of August, eighteen hundred and twenty-seven, in the mode prescribed in its second article, and that the attention of the Governments of both countries may be the more earnestly directed to the adoption of all proper measures for a speedy and amicable adjustment of the differences and disputes in regard to said territory;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby authorized, at his discretion, to give to the Government of Great Britain the notice required by the second article of the said convention of the sixth of August, eighteen hundred and twenty-seven, for the abrogation of the same.

"Approved April 27, 1846."

IV. By resolution of the Senate, authorizing the President to give notice.

In his annual message of December 4, 1854, President Pierce referred to the unsatisfactory situation respecting the Danish Sound dues and intimated his wish for authority to give notice to terminate the treaty.[3] Though this was a message to Congress and not to the Senate alone, the Senate in executive session on March 3, 1855, unanimously passed such a resolution.[4] Acting under this authority, the President on April 14, 1855, gave notice to Denmark of the desire to terminate the treaty.

This action of the President, under authority of a Senate resolution alone, gave rise to a notable debate in the Senate in the spring of 1856. Charles Sumner, on February 28 of that year, introduced a resolution directing the Committee on Foreign Relations to consider the expediency of some act of legislation "having the concurrence of both

[1] Richardson's Messages, IV, p. 395.
[2] IX U. S. Stat. L., 109.
[3] Richardson's Messages, IX, 430.
[4] Ex. Journal, IX, 430.

Houses of Congress by which the treaty with Denmark, regulating the payment of sound dues, may be effectively abrogated, in conformity with the requirements of the Constitution, under which every treaty is a part of 'the supreme law of the land' and in conformity with the practice of the Government in such cases; and especially to consider if such legislation be not necessary forthwith, in order to supply a defect in the notice of the purpose of the United States to abrogate the said treaty, which the President has undertaken to give to Denmark, without the authority of an act of Congress and in disregard of the function of the House of Representatives, in the abrogation of all existing laws." [1]

On March 6, 1856, Sumner called up this resolution [2] and made a speech in which he argued that this act of the President, based on the resolution of the Senate, was "unconstitutional and usurpative." Under the Constitution treaties are made by the President by and with the advice and consent of the Senate, but the Constitution does not say treaties may be so terminated. Treaties under the Constitution are the supreme law of the land, therefore no one but Congress may abrogate them—not the President alone, nor the President and Senate alone, but the President, Senate, and House of Representatives acting jointly. Congress alone can declare war. The President and the Senate can not do this, and, therefore, as the abrogation of a treaty may lead to war the President has no power under the Constitution to take any action which may lead to it. Sumner then quoted Story and Judge Iredell, as already given (pp. 3, 6, supra).

Senator James Mason, of Virginia,[3] chairman of the Committee on Foreign Relations, supported the right of the President and Senate to give notice as provided by the treaty, and drew a distinction between abrogation and repeal and the termination of a treaty by notice. From his point of view, the President alone might terminate a treaty upon notice. Sumner's views were upheld by Senators Seward of New York, Fessenden of Maine, Crittenden of Kentucky, and Steward of Michigan. Senator Toucey, of Connecticut,[4] said that the treaty-making power of the Federal Government can not abrogate a treaty without assent of the foreign Government with which the treaty is made, though with the consent of the foreign Government it can abrogate any treaty by the substitution of a new one for the old. He held that the President and Senate can terminate on notice, but that it required an act of Congress to abrogate a treaty. "Contracting party," the words used in the treaty, meant the President and Senate, and in this case the treaty was terminated, not abrogated. Senator Collamer, of Vermont,[5] said that the treaty, in relation to the foreign Government, is a contract, but in relation to the United States it is a law. If we abrogate a treaty, we are not absolved from the possible damages arising thereunder. There are only two methods of terminating a treaty, viz., first, by substituting an old one by a new one, and second, by act of Congress. All treaties must therefore be terminated or abrogated by Congress. Senator Toucey, speaking again,[6] held that the treaty-making power could give notice; the President alone could not terminate on notice, but such notice must have the sanction of the Senate.

Sumner's resolution went to the Committee on Foreign Relations, of which Senator Mason was chairman, and on April 7, 1856, that committee reported a resolution that the notice given by the President, pursuant to the resolution of the Senate, was sufficient.[7] A month later, May 8, 1856,[8] Sumner made another speech in support of his original attitude, and there was considerable further discussion, participated in, among others, by Judah P. Benjamin, who made a brief but effective speech in support of Sumner's argument.[9]

Senator Mason made numerous efforts to have his resolution considered, and July 22, 1856, his motion to proceed to the consideration of his resolution and report was defeated by a vote of 16 to 20,[10] and the resolution was never heard from again. Though no determination of this question was reached by the Senate, the arguments advanced proved so conclusively that the Senate alone has not the power to repeal or abrogate a treaty, or even to authorize its termination on notice, that there is no record of any subsequent resolution by the Senate alone authorizing the President to give notice of the termination of a treaty.

V. *By notice from the President, subsequently "adopted and ratified" by joint resolution.*

It is not surprising to find that during the period of the Civil War, when executive power was so much extended, notice of the desire to terminate a treaty was given by the President without any previous action by Congress. On November 23, 1864,

[1] Cong. Globe, 34 Cong., 1st ses., pp. 577-8, Feb. 28, 1856.
[2] Ibid., 599, et seq.
[3] Ib., 601.
[4] Ib., 602.
[5] Ib., 603.
[6] Ib., 604.
[7] Ib., 826.
[8] Ib., 1146-1158.
[9] Ib., 1156.
[10] Ib., 1700.

notice was given to Great Britain of the desire to terminate the agreement of 1817, relative to vessels of war on the Great Lakes, at the expiration of the six months stipulated in the treaty for its termination on notice. By a joint resolution, approved February 9, 1865, Congress "adopted and ratified" this notice "as if the same had been authorized by Congress." Before the six months had elapsed, however, the notice was withdrawn by the President, and the arrangement since the date of withdrawal has been recognized as of full force and effect. The act of February 9, 1865, follows: [1]

"JOINT RESOLUTION To terminate the treaty of eighteen hundred and seventeen, regulating the naval force on the Lakes.

"Whereas the United States of the one part and the United Kingdom of Great Britain and Ireland of the other part, by a treaty bearing date April, eighteen hundred and seventeen, here regulates the naval force upon the Lakes, and it is further pointed out that 'if either party shall hereafter be desirous of annulling this stipulation and should give notice to that effect to the other party it shall cease to be binding after the expiration of six months from the date of such notice'; and

"Whereas the peace of our frontier is now endangered by hostile expedition against the commerce of the Lakes, and by other acts of lawless persons, which the naval force of the two countries allowed by the existing treaty may be insufficient to prevent; and

"Whereas, further, the President of the United States has proceeded to give the notice required for the termination of the treaty by a communication which took effect on the twenty-third day of November, eighteen hundred and sixty-four; therefore,

"*Be it resolved by the Senate and House of Representatives of the United States in Congress assembled*, That the notice given by the President of the United States to the Government of Great Britain and Ireland to terminate the treaty of eighteen hundred and seventeen, regulating the naval force upon the Lakes, is hereby adopted and ratified as if the same had been authorized by Congress."

Approved, February 9, 1865.

VI. *By notice from the President, without any prior or subsequent act of Congress.*[2]

In addition to the case just cited, there is the case of the notice given to the Swiss Government on March 23, 1899, of the intention to terminate articles 8 to 12 of the treaty of November 25, 1850. This is the sole instance so far discovered of action by the President without previous or subsequent act by one or other of the Houses of Congress.

VII. *By a new treaty superseding one of prior date.*

This method of repealing a treaty is so commonly resorted to as to require no comment, other than that clauses are usually inserted in the new treaty to the effect that the previous treaties or parts of treaties in conflict with the provisions of the new treaty are superseded thereby. (See Moore's Digest.)

Our diplomatic history is not without precedents that should serve as a guide in emergencies like the present. When in 1876 the Government of Great Britain attempted to restrict the application of the extradition provisions of the treaty of 1842 between the United States and that nation by seeking to control its interpretation by the provisions of an act of Parliament passed in 1870, President Grant and Secretary of State Hamilton Fish protested energetically. President Grant declared it to be intolerable that a purely domestic enactment of the British Parliament passed in 1870 could qualify or restrict the application of an international agreement entered into in 1842 and faithfully observed by both parties to it without dissent for almost a generation.

When long continued and patient remonstrance had no effect, President Grant, on June 20, 1876, sent a special message to Congress, in which he recited the facts at issue and added that pending Great Britain's refusal to execute the existing treaty, he would not take any action, without an expression of the wish of Congress that he should do so, either in making or granting requisitions for the surrender of fugitive criminals under that treaty. He further asked Congress in its wisdom to determine whether the particular article in question should be any longer regarded as obligatory on the United States or as forming part of the supreme law of the land. This was equivalent to a notice to Great Britain that unless Congress directed otherwise, President Grant would suspend the operation of the extradition clause of the treaty of 1842 because of the violation of its terms by the Government of Great Britain.

[1] United States Stat. L., vol. 13, Pt. II, p. 568.
[2] Moore's Digest, V, 283-285, and Foreign Relations, 1899, 753-757.

The unqualified stand taken by President Grant that one of the parties to a treaty could not change or alter its terms or construction or attach new conditions to its execution without the assent of the other, resulted in the withdrawal by Great Britain of her contention, and on December 23, 1876, President Grant was able to announce to Congress that Great Britain was prepared to observe the extradition clause of the treaty in accordance with the interpretation put upon it by the United States.

In this case, the question at issue affected merely the extradition of fugitive criminals, yet President Grant deemed it of sufficient importance practically to suspend the operation of a clause of a treaty when he considered that its terms had been violated. The question at issue between the United States and Russia involves not a mere matter of the extradition of criminals but a fundamental right of American citizenship. In the two cases involving, on the one hand, the extradition provisions of the treaty of 1842 with Great Britain, and, on the other hand, the travel and sojourn provisions of the treaty of 1832 with Russia, the points at issue are almost precisely similar. Great Britain, after observing the treaty for nearly 30 years, attempted by an act of municipal legislation to limit or change the rights which were conceded to the United States by treaty; Russia, after a similar period of faithful observance of the treaty of 1832, his for a generation persistently violated the letter and spirit of the treaty on a like pretext. We have seen what action President Grant took in 1876. In 1911 the treaty with Russia is still permitted to remain in force.

Following are the salient parts of the messages:

[Extract, Message of June 20, 1876.][1]

It appears from the correspondence that the British Government bases its refusal to surrender the fugitive and its demand for stipulations or assurances from this Government on the requirements of a purely domestic enactment of the British Parliament, passed in the year 1870.

The act was brought to the notice of this Government shortly after its enactment, and Her Majesty's Government was advised that the United States understood it as giving continued effect to the existing engagements under the treaty of 1842 for the extradition of criminals, and with this knowledge on its part, and without dissent from the declared views of the United States as to the unchanged nature of the reciprocal rights and obligations of the two powers under the treaty, Great Britain has continued to make requisitions and to grant surrenders in numerous instances, without suggestion that it was contemplated to depart from the practice under the treaty which has been obtained for more than 30 years, until now, for the first time, in this case of Winslow, it is assumed that under this act of Parliament Her Majesty may require a stipulation or agreement not provided for in the treaty as a condition to the observance to Her Government of its treaty obligations toward this country.

This I have felt it my duty emphatically to repel.

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The position thus taken by the British Government, if adhered to, can not but be regarded as the abrogation or annulment of the article of the treaty on extradition.

Under these circumstances it will not, in my judgment, comport with the dignity or self-respect of this Government to make demands upon that Government for the surrender of fugitive criminals, nor to entertain any requisition of that character from that Government under the treaty.

It will be a cause of great regret if a treaty which has been thus far beneficial in its practical operation, which has worked so well and so efficiently, and which, notwithstanding the exciting and at times violent political disturbances of which both countries have been the scene during its existence, has given rise to no complaints on the part of either Government against either its spirit or its provisions, should be abruptly terminated.

It has tended to the protection of society and to general interests of both countries. Its violation or annulment would be a retrograde step in international intercourse.

I have been anxious and have made the first effort to enlarge its scope and to make a new treaty which would be a still more efficient agent for the punishment and prevention of crime. At the same time I have felt it my duty to decline to entertain a proposition made by Great Britain, pending its refusal to execute the existing treaty, to amend it by practically conceding by treaty the identical conditions which that Government demands under its act of Parliament. In addition to the impossibility of the United States entering upon negotiations under the menace of an intended violation or a refusal to execute the terms of an existing treaty, I deemed it inadvisable to treat of only the one amendment proposed by Great Britain while the United States

[1] Richardson, Messages, Vol. VII, p. 371.

desires an enlargement of the subjects of Russia for which extradition may be asked and other improvements which experience has shown might be embodied in a new treaty.

It is for the wisdom of Congress to determine whether the article of the treaty relating to extradition is to be any longer obligatory on the Government of the United States or as forming part of the supreme law of the land. Should the attitude of the British Government remain unchanged, I shall not, without an expression of the wish of Congress that I should do so, take any action either in making or granting requisitions for the surrender of fugitive criminals under the treaty of 1842.

[Extract, message of December 23, 1876.][1]

Article XI of the treaty of 1842 provided that "the tenth article [that relating to extradition] should continue in force until one or the other of the parties should signify its wish to terminate it, and no longer."

In view, however, of the great importance of an extradition treaty, especially between two States as intimately connected in commercial and social relations as are the United States and Great Britain, and in the hope that Her Majesty's Government might yet reach a different decision from that then attained, I abstained from recommending any action by Congress terminating the extradition article of the treaty. I have, however, declined to take any steps under the treaty toward extradition.

It is with great satisfaction that I am able now to announce to Congress and to the country that by the voluntary act of Her Majesty's Government the obstacles which had been interposed to the execution of the extradition article of the treaty have been removed.

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[1] Richardson, Messages, Vol. VII, p. 415.

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APPENDIX IV.[1]

THE PASSPORT QUESTION IN CONGRESS, 1879–1909.

The American Jewish Year Book for the year 5665, pages 283–305, contains an article on the American passport in Russia. This consisted in the main of extracts from the Foreign Relations of the United States and disclosed the firm stand which our Department of State has always taken respecting the recognition in Russia of the American passport. In that article, however, reference was made to only two resolutions of Congress upon this question, than which none is of more importance to the Jews in this country. It has seemed well, therefore, to supplement the valuable article referred to by giving in the following pages all the resolutions introduced into or passed by either branch of Congress upon this subject, and a few other documents pertinent thereto.

The first instance recorded is that growing out of the case of a naturalized citizen, Theodore Rosenstraus, whose name appears frequently in the diplomatic correspondence from 1873 to 1879. The resolution reads as follows:

"[H. Res. 77. Forty-sixth Congress, first session, June 11, 1879.]

"JOINT RESOLUTION In relation to treaty negotiations with Russia as to American citizens.

"Whereas it is alleged that by the laws of the Russian Government no Hebrew can hold real estate, which unjust discrimination is enforced against Hebrew citizens of the United States resident in Russia; and

"Whereas the Russian Government has discriminated against one T. Rosenstraus, a naturalized citizen of the United States, by prohibiting him from holding real estate, after his purchasing and paying for the same, because of his being an Israelite; and

"Whereas such disabilities are antagonistic to the enlightened spirit of our institutions and age, which demand free exercise of religious belief and no disabilities therefrom; and

"Whereas the Secretary of State, under date of April 28, 1879, expresses doubt of his ability to grant the relief required under existing treaty stipulations: Therefore

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the rights of the citizens of the United States should not be impaired at home or abroad because of religious belief; and that if existing treaties between the United States and Russia be found, as is alleged, to discriminate in this or any other particular as to any other classes of our citizens the President is requested to take immediate action to have the treaties so amended as to remedy this grievance."

Passed the House of Representatives, June 10, 1879.

The next resolution was introduced by Mr. S. S. Cox, of New York, and appears to have been brought about by the threatened expulsion from St. Petersburg of James G. Moses:

"[Jan. 26, 1882.] *Resolved*, That the President of the United States, if not incompatible with the public service, be requested to communicate to this House all correspondence between the Department of State and the United States minister at St. Petersburg relative to the expulsion of American Israelites from Russia and the persecution of the Jews in the Russian Empire."

Reported back favorably and passed January 30, 1882.

It was in response to this resolution that President Arthur, on May 2, 1882, transmitted the diplomatic correspondence with Russia in reference to Jews which had passed between 1872 and 1882. (47th Cong., 1st sess., Ex. Doc. No. 192.)

Mr. Cox introduced further resolutions as follows:

"[July 31, 1882.] Whereas the Government of the United States should exercise its influence with the Government of Russia to stay the spirit of persecution as directed against the Jews, and protect the citizens of the United States resident in Russia, and seek redress for injuries already inflicted, as well as to secure by wise and enlightened

[1] Reprint from the American Jewish Year Book, 5670.

administration the Hebrew subjects of Russia and the Hebrew citizens of the United States resident in Russia against the recurrence of wrongs: Therefore

"*Resolved*, That the President of the United States, if not incompatible with the public service, report to this House any further correspondence in relation to the Jews in Russia not already communicated to this House."

Referred to the Committee on Foreign Affairs.

On February 19, 1883, he submitted the same resolution, which was referred to the Committee on Foreign Affairs and reported back favorably on February 23, 1883, and passed.

"[Jan. 8, 1884.] *Resolved*, That the President of the United States, if not incompatible with the public service, communicate to this House all communications between the Government of Russia and that of the United States, not heretofore communicated, with respect to the condition and treatment of Hebrews by the Government of Russia, especially with reference to Hebrew citizens of the United States."

Reported back favorably, and adopted on February 25, 1884.

"[Dec. 20, 1886.] *Resolved*, That the President of the United States, if not incompatible with the public service, communicate to this House all correspondence in the Department of State between that department and our minister to Russia, or between the minister and the Russian Government, in relation to the conduct of the said Russian Government in the treatment and expulsion of S. Michelbacher, an American citizen who was expelled from Russia on account of his being a Hebrew; and further, if not incompatible with the public service, to communicate all other correspondence in the department between our Government and that of Russia, in relation to the condition or expulsion of Hebrews who are Americans from the territory of Russia."

Referred to the Committee on Foreign Affairs.

For six years Congress took no further action until Mr. J. Logan Chipman, of Michigan, introduced the following:

"[H. Res. No. 94. Fifty-second Congress, first session, Feb. 29, 1892.]

"To inquire into the operation of the anti-Jewish laws of Russia on American citizens.

"*Resolved*, By the Senate and the House of Representatives of the United States of America in Congress assembled, That the President of the United States is directed to inform Congress, whether by the laws and regulations of the Empire of Russia, concerning Jews, any American citizen of that faith is subject to restrictions as to residence and business in said Empire, which violate the provisions of article 1 of the treaty of 1832, between the United States and said Empire, and whether said laws and regulations are held by the Government of Russia to supersede, so far as American citizens of the Jewish faith are concerned, the provisions of the said treaty, permitting sojourn and residence of inhabitants of the United States in all parts whatsoever of the territories of Russia, in order to attend to their own affairs."

Referred to the Committee on Foreign Affairs and reported on April 6, 1892, as follows:

"[H. Report No. 1000. Fifty-second Congress, first session.]

"The subject of the resolution is of great concern to the people of the United States. It seeks to ascertain the status of American citizens of Jewish faith in the Empire of Russia. Every citizen of the Republic is entitled at home and abroad to the exact treatment and protection which are the full right of citizenship under the Constitution and our treaties with foreign powers. Our Government can make no distinction based on creeds or birthplaces of its citizens, nor can it permit such distinction to be made by foreign powers. Not the religion nor race of a person but his American citizenship is the grand test of the treatment he shall receive and the rights he shall enjoy in other countries.

"The peculiar laws and ordinances of the Empire of Russia have created great uneasiness among American citizens of Jewish faith. Whatever we may think of those laws and ordinances as part of the domestic policy for the government of the Russian Jews, we can not tolerate their application to any American citizens of any religious faith or race. As between Russia and the United States they are simply inadmissible, if they are designed to control the conduct and to define the rights of any of our people who resort to that Empire for the peaceful purposes of commerce or, for any other purpose recognized by civilized nations; but when laws are aimed at a sect, a religious belief, or, what is the same thing, at the people who profess that belief, it is apparent that the reasons which prompt such action may extend to and embrace foreigners of the same belief, and of the same people.

"The apprehensions of American citizens in this respect, if not founded on certainty, are at least natural. The laws of Russia regarding Jews engaged in commercial pursuits are of a character which is inimical to fair and free intercourse between that people and other peoples of the Empire. They restrict the places of residence, the pursuits to be followed, the cities to be resorted to, and prescribe regulations as to time of residence and membership of local guilds which would practically exclude American Jews from enjoying the benefit of the treaty provisions between this country and Russia if they are applied to citizens of the United States. The joint resolution under consideration seeks a solution of the question by inquiries directed to the executive branch of the Government.

In order to understand the true state of the question, it is well to refer to article 1 of the treaty of 1832 between the United States and Russia. It prescribes:

"There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of these respective States shall mutually have liberty to enter the ports, places, or rivers of the territories of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatever of said territories in order to attend to their affairs and they shall enjoy to that effect the same security and protection as natives of the country where they reside on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

This treaty stipulation between civilized nations would seem to have but one meaning and to admit of no discrimination in favor of some and against other citizens of either of the high contracting parties; but what claim Russia may make under the clause in regard to "security and protection" and the "condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce," is the question.

Is the "security and protection" accorded to a native Russian Jew the "security and protection" to be accorded to an American citizen of Jewish faith? Are the restrictions placed on the Russian Jew as to commerce part of the "laws and ordinances" to be submitted to and to be regarded under the treaty as "regulations in force concerning commerce?" These are problems of serious concern to the American Jews, who, as men of commercial pursuits, feel that all avenues of trade should be open to them and, as American citizens, that they should stand abroad, as they do at home, on an exact equality with other children of the Republic.

The committee are certain that a discrimination can not legally be made against them, and that if it is made practically it would be a violation of the treaty and an unfriendly act toward the United States on the part of Russia. They are not prepared to believe that that nation will assume this attitude, but they deem it wise to have the matter authoritatively settled by an inquiry of the executive branch of the Government of the United States.

This much is due to the commercial greatness, the usefulness, and patriotism of the American Jews. Their apprehensions may be ill-founded, and Russia may not make the monstrous claim that her laws relating to Jews are applicable to a citizen of this country, but it is well to know what the fact is and to ascertain the position of our own Government in the premises.

On June 10, 1892, Mr. Irvine Dungan, of Ohio, introduced the following joint resolution:

"[H. Res. 140. Fifty-second Congress, first session.]

"Directing the severance of diplomatic relations with Russia.

"*Resolved*, By the Senate and the House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby directed to sever our diplomatic relations with the Russian Government till such time as that Government shall cease discrimination against the Hebrews because of their religious faith, and remove the arbitrary and brutal restrictions now imposed upon them against the protest of the civilized world."

Referred to the Committee on Foreign Affairs.

In the next year Mr. Isidor Rayner, of Maryland, introduced the following:

"[H. Res. 184. Fifty-second Congress, second session. May 28, 1894.]

"Relating to the Russian treaty.

"Whereas in the treaties and conventions now existing between the United States of America and the Government of Russia it is provided that the inhabitants of each country shall mutually have the liberty to enter, sojourn, and reside in the respective

territories of each other, and to that effect shall enjoy the same security and protection as natives of the country wherein they reside; and

"Whereas the Government of Russia has singled out a certain class of citizens and inhabitants of the United States and forbidden them from sojourning or residing in or entering into the territory or dominions of Russia on account of their religious faith; and

"Whereas the severest penalties are visited upon those who in any manner violate this edict of the Russian Government so that an American citizen of the prescribed faith, with an American passport, who should cross the borders of Russian territory would, under the penal code of Russia, be subjected to the most cruel punishment without the privilege of trial by jury; and

"Whereas the Government of Russia has lately refused, in any manner, to modify its policy in this respect, and has, through its minister and representatives, refused to an eminent citizen of the United States the right to enter upon its territory, for a peaceful purpose and upon a mission of mercy, because he came under the ban of religious exclusion, hereinbefore referred to, and for no other reason; and

"Whereas such action, persistently pursued by the Government of Russia, is in violation of the law of nations, and in direct breach of the treaties, conventions, and stipulations that now exist between this Government and the Government of Russia: Therefore

"*Resolved* by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and directed to make a demand upon the Government of Russia, that citizens of the United States shall have the same right of entry, travel, and sojourn in the territory of Russia that citizens of Russia have in the territory of the United States, and that no citizen of the United States shall be deprived of that right by reason of his religious faith. That the President is further directed to call the attention of the Government of Russia to its continued violation of the treaty rights between said Government and the Government of the United States, by its refusal to allow citizens of this country the same rights of entry, travel, and sojourn that Russian citizens are allowed in our territory.

"SEC. 2. That a copy of these resolutions be transmitted by the President, with said demand and modification, and that upon a failure upon the part of the Russian Government to comply with said demand and abide by its treaty obligations with the Government of the United States, the President of the United States shall thereupon give notice to the Government of Russia of the termination of all treaties between the Government of Russia and the Government of the United States, and from and after said notice all treaties and conventions between said Governments shall be abrogated and determined."

Referred to the Committee on Foreign Affairs.

Nearly three years later Mr. John F. Fitzgerald, of Boston, submitted the following:

"[Res. 25. Fifty-fifth Congress, first session, Mar. 31, 1897.]

"*Resolved*, That the Secretary of State be requested to demand from the Russian Government that the same rights be given to Hebrew American citizens in the matter of passports as now are accorded to all other classes of American citizens, and also inform the House of Representatives whether any American citizens have been ordered to be expelled from Russia or forbidden the exercise of the ordinary privileges enjoyed by the inhabitants, because of their religion."

Referred to the Committee on Foreign Affairs.

On December 4, 1899 (56th Cong., 1st sess.), Mr. Fitzgerald submitted a resolution (H. Res. No. 4) worded exactly as the above.

In 1897, when the Russian chargé refused to visé the passport of Adolph Kutner, a California banker, for the reason that he was a Jew, Senator J. C. Perkins introduced the following, which was referred to the Committee on Foreign Relations:

"[S. Res. 109. Fifty-fifth Congress, first session, May 25, 1897.]

"Whereas a refusal by the chargé d'affaires of the Russian legation to visé a passport, duly issued by the Department of State to an American citizen, has raised the question of invidious distinction by the Russian Government against certain Americans who are among the most useful, intelligent, and patriotic of the people of the United States; and

"Whereas Prince Lobanow, imperial minister of foreign affairs, under date of August 12, 1895, informed the minister of the United States at St. Petersburg that the 'Imperial Government, having already many millions of Jewish subjects, only admits their cogeners of foreign allegiance when they seem to present a guaranty that they

will not be a charge and a parasite element in the State, but will be able, on the contrary, to be useful to the internal development of the country'; and

"Whereas the citizen refused admission to Russia is one of the wealthiest and most progressive and most public-spirited of the residents of California, and in no way liable to become a charge upon the Russian Government, but able, if a resident, to be useful to the internal development of that country; and

"Whereas said citizen simply desired to visit Russia for the purpose of seeing relatives and not for the purpose of permanent residence; and

"Whereas refusal to visé his passport seems to have been based on the single fact that he professes the Jewish and not a Christian faith, which is contrary to the definitions given by the imperial minister of foreign affairs to the class of persons who are prohibited from entering the Russian dominions; and

"Whereas the apparent contradictions between the theory and the practice of the Russian Government give rise to the suspicion that a certain class of our citizens are excluded from the benefits of travel and temporary sojourn in Russia, simply because of their religious belief; and

"Whereas such distinction would be abhorrent to all people who believe in the right of men to worship according to the dictates of conscience: Therefore

"*Resolved*, That this Government request the Imperial Government of Russia to specifically declare whether American citizens are excluded from Russia on account of their religious faith; and if so, that said Imperial Government of Russia be requested to remove such prohibition and to permit Americans of whatever religious faith to visit Russia, if they are not liable to become a charge upon the Empire by reason of poverty or an inability to support themselves by honest labor."

This was followed by a resolution introduced by Mr. Curtice H. Castle, of California, which was referred to the Committee on Foreign Affairs:

"[H. Res. 126. Fifty-fifth Congress, second session, December 9, 1897.]

"Whereas the Imperial Government of Russia forbids American citizens of the Hebrew faith the ordinary privileges enjoyed by other American citizens, of travel or residence within the confines of the Russian Empire: Therefore

"*Resolved*, That the Secretary of State be requested to demand of the Russian Government that it accord the same rights and privileges to said citizens as to other American citizens."

In 1902 Representative Henry M. Goldfogle introduced the first of his important resolutions on this subject:

"[H. Res. 183. Fifty-seventh Congress, first session, March 28, 1902.]

"*Resolved by the House of Representatives of the United States*, That the Secretary of State be, and he is hereby, respectfully requested to inform this House whether American citizens of the Jewish religious faith, holding passports issued by this Government, are barred or excluded from entering the territory of the Empire of Russia, and whether the Russian Government has made, or is making, any discrimination between citizens of the United States of different religious faiths or persuasions, visiting or attempting to visit Russia, provided with American passports; and whether the Russian Government has made regulations restricting or specially applying to American citizens, whether native or naturalized, of the Jewish religious denomination, holding United States passports, and if so, to report the facts in relation thereto, and what action concerning such exclusion, discrimination or restriction, if any, has been taken by any department of the Government of the United States."

Amended by adding the words "if not incompatible with the public interest" after the word "House" on the third line.

Debated and passed, April 30, 1902. (See American Jewish Year Book 5665, pp. 302-303.)

On June 27, 1902, Senator E. W. Pettus, of Alabama, submitted the following resolution:

"[S. Res. 284. Fifty-seventh Congress, first session. June 27, 1902.]

"Whereas it is asserted that American citizens, holding American passports, have been and are excluded by the Russian Government from its territory, solely because of their religious belief, contrary to treaty stipulations: Therefore

"*Resolved*, That the President of the United States is requested, if not incompatible with the public interest, to inform the Senate as to the attitude of the Russian Government toward American citizens attempting to enter its territory with American passports."

Debated and passed.

In 1904 Mr. Goldfogle renewed his efforts, and introduced the following:

"[H. Res. 113. Fifty-eighth Congress, second session, January 4, 1904.]

"*Resolved*, That it is the sense of the people of the United States that uniform treatment and protection should be accorded to every American citizen, regardless of race or creed, when traveling or sojourning abroad, and that every earnest effort should be made by the executive department of this Government to secure from the Imperial Government of Russia such uniformity of treatment and protection, especially in the recognition and honoring of the passports held by our citizens, to the end that there be no discrimination made by the Government of Russia between American citizens on the ground of their religious belief or faith; and the President of the United States is hereby respectfully requested to take such steps and cause such diplomatic negotiations to be set on foot as may tend to secure, through means of treaty or otherwise, the honoring and the uniform recognition by the Russian Government and its authorities of American passports, irrespective of the religious faith or denomination of their holders, to the end that every law-abiding citizen provided with a passport duly issued by this Government shall, regardless of what may be his race, creed, or religious faith, have freedom in traveling and sojourn in the territory of Russia, subject to such provisions in any treaty between the United States and Russia as are not consistent with the spirit and intent of this resolution."

This resolution was discussed by Messrs. Martin Emerich of Illinois, H. M. Goldfogle and F. Burton Harrison of New York, and Alfred Lucking of Michigan. On February 18 the House Committee on Foreign Affairs granted a hearing on the resolution and on April 16 reported the following substitute, which was unanimously adopted on the 21st:

"[H. Res. 113. Rept. No. 2531. Fifty-eighth Congress, second session, Apr. 16, 1904.]

"*Resolved*, That the President be requested to renew negotiations with the governments of countries where discrimination is made between American citizens on the ground of religious faith or belief, to secure by treaty or otherwise uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States, in order that all American citizens shall have equal freedom of travel and sojourn in those countries, without regard to race, creed, or religious faith."

In conformity with the terms of this resolution the following dispatches passed between Secretary of State Hay, Ambassador McCormick, and Count Lamsdorff:

[Mr. Hay to Mr. McCormick.]

DEPARTMENT OF STATE, *Washington, July 1, 1904.*

SIR: On the 21st of April last the House of Representatives of the United States adopted a resolution in the following words: [Here follows the resolution just given.]

The subject to which this resolution relates has heretofore been the occasion of friendly but sincerely earnest representations to the Russian Government on the part of that of the United States. The instructions on file in your office and the correspondence had by your predecessors with the imperial foreign office leave no doubt as to the feeling of the Government of the United States in regard to what it has constantly believed to be a needlessly repressive treatment of many of the most reputable and honored citizens of the United States. Similar views have been expressed, by my predecessors as well as by myself, in conferences with the representatives of Russia at this capital. That these friendly representations have not hitherto produced the results so befitting the close intimacy of the relations of the two countries for more than a century and so much in harmony with their traditional amity and mutual regard, is not in the President's judgment, ground for relaxing endeavors to bring about a better understanding, if only on the score of expediency and reciprocal convenience.

I have therefore to instruct you to inform Count Lamsdorff that the text of the foregoing resolution has been sent to you for your information and for your guidance in interpreting this expression of the feeling of the people of this country, through their direct representatives, as to the treatment of the citizens in question. You will make known to his excellency the views of this Government as to the expediency of putting an end to such discriminations between different classes of American citizens on account of their religious faith when seeking to avail themsleves of the common privilege of civilized peoples to visit other friendly countries for business or travel.

That such discriminatory treatment is naturally a matter of much concern to this Government is a proposition which his excellency will readily comprehend without dissent. In no other country in the world is a class discrimination applied to our visiting citizens. That the benefits accruing to Russia are sufficient to counterbalance the inconveniences involved is open to question from the practical standpoint.

In the view of the President it is not easy to discern the compensating advantage to the Russian Government in the exclusion of a class of tourists and men of business, whose character and position in life are such as to afford in most cases a guaranty against any abuse of the hospitality of Russia and whose intelligence and sterling moral qualities fit them to be typical representatives of our people and entitle them to win for themselves abroad a no less degree of esteem than they enjoy in their own land.

I have, etc.,

JOHN HAY.

(Foreign Relations, 1904, p. 790.)

[Mr. McCormick to Count Lamsdorff.]

AMERICAN EMBASSY,
St. Petersburg, August 22, 1904.

YOUR EXCELLENCY: Under instructions from my Government which I found awaiting me on my return from Carlsbad, I have the honor to bring before you for consideration at this time a subject which has been the occasion from time to time of friendly but sincerely earnest representations to the Russian Government on the part of that of the United States.

The feeling of the people of the United States, which is deep and widespread with reference to this subject, found expression in a resolution adopted on the 21st of April last by the House of Representatives.

I assume that your excellency's attention was called to this resolution at the time of its adoption, by His Excellency Count Cassini, His Imperial Majesty's ambassador in Washington, and that a copy of the resolution was transmitted to you for your information. As your excellency doubtless noted at the time, this resolution is conceived in a temperate spirit and expressed in moderate terms, such as to recommend its reception in a similar spirit as well as the consideration of the subject which it brings forward.

The text of this resolution was sent to me for my information in interpreting this expression of the feeling of the American people as to the treatment of the citizens in question, and I here beg to insert the resolution as placing that expression on record, although, as above indicated, a copy of the resolution has already been transmitted to you by Count Cassini (see above).

This resolution voices not only the feelings of the people, but also a principle which lies at the foundation of our Government. It is for this reason that the question has been, is, and always will be a live question with us and liable to become acute and be brought forward at some time in such a way as to seriously disturb the friendly relations which have always existed between Russia and the United States.

Aside from the belief that the treatment accorded by Russia to many of our most reputable and honored citizens is needlessly repressive, public opinion, as your excellency knows, plays a large part in the foreign relations as well as domestic affairs with us, and when underneath this public opinion there lies an important principle, as is the case in the United States, it can not be left out of account by those who have maintained the close relations which it is desired by my Government to see maintained with this great Empire and her august ruler.

"That friendly representations," as is set forth in my instructions, "have not hitherto produced results befitting the close intimacy of the relations of the two countries for more than a century, and so much in harmony with their traditional amity and mutual regard, is not, in the President's judgment, ground for relaxing endeavors to bring about a better understanding, if only on the score of expediency and reciprocal convenience."

Moreover, in no other country in the world is class discrimination applied to our visiting citizens, nor can it be seen, from the practical standpoint, that the benefits accruing to Russia are sufficient to counterbalance the inconvenience involved. In the view of the President, "it is not easy to discern the compensating advantage to the Russian Government in the exclusion of a class of tourists and men of business whose character and position in life are such as to offer in most cases a guarantee against any abuse of the hospitality of Russia, and whose intelligence and sterling moral qualities fit them to be typical representatives of our people and to win for themselves abroad a no less degree of esteem than they enjoy in their own land."

It seems to me that there are higher grounds to which to appeal, and to which it is opportune to appeal at this time, than those of expedience and reciprocal convenience, evidences of the influences of which have manifested themselves in steps already taken toward the alleviation of the condition of the representatives of the race referred to within the Empire.

At this time, too, when the world is extending its congratulations to His Majesty on an event which has brought happiness to himself and gratification to his friends; when he is extending the Imperial clemency to some, justly under the ban of the law, it would seem fitting to take under consideration this larger question, a solution of which would not only tend to draw closer the relations between this great Empire and the United States, but also to arouse a responsive feeling of good will throughout the world.

The railway and the telegraph are breaking down the barriers of distance which have until now kept apart the peoples of the various nations of the earth; Russia has made a notable contribution to this object in the great system of railways constructed within the Empire, which are operated in close connection and harmony with those of the outside world.

To throw this great railway system open more fully to those who would avail themselves of it for legitimate purposes, is but to dedicate it to a use which would be of the greatest good to the Empire and the world at large.

Events have proven that no artificial barrier can keep out those who come with hostile intent or who, from without, seek to circulate ideas of hostile character. Is there any reason, therefore, why at least serious consideration should not now be given to the views of my Government as to the expediency of putting an end to such discriminations as now exist in Russia between different classes of American citizens on account of their religious faith when seeking to avail themselves of the common privilege of civilized peoples to visit other friendly countries for business or for travel?

In transmitting the views of my Government at this length, and personally adding some reasons for favorable action which seem to me to be cogent, I have been actuated by the desire, as your excellency will appreciate, to contribute something toward those friendly relations which have marked the past and which I value. For this reason I lend myself most earnestly to the work of carrying out my Government's instructions, in the hope that the result will be such as to contribute to the removal of one question of disturbing character from the realm of discussion by a mutually satisfactory understanding concerning it.

I take this occasion to renew to your excellency the assurance of my high consideration.

ROBERT S. MCCORMICK.

(Foreign Relations 1904, p. 791.)

[Mr. McCormick to Mr. Hay.]

AMERICAN EMBASSY,
St. Petersburg, October 7, 1904.

SIR: I have the honor to transmit to you herewith a copy and translation of a note received from Count Lamsdorff, imperial minister for foreign affairs, in reply to mine of August 22 last, relating to the resolution adopted by the House of Representatives of the United States on April 21 last, concerning "the freedom of travel and sojourn in Russia, without regard to race, creed, or religious faith," of all American citizens, which was transmitted to me in your dispatch No. 127, of July 1 last.

I have, etc.

ROBERT S. MCCORMICK.

[Count Lamsdorff to Mr. McCormick.]

MINISTRY FOR FOREIGN AFFAIRS,
St. Petersburg, October 4, 1904.

MR. AMBASSADOR: It is with special interest that I have become acquainted with the consideration expressed by your excellency in your note of the 9/22d of August, relative to certain facilities to be granted to American citizens of Hebrew faith with regard to their entry into Russia. In this connection I have the honor to inform you that a special commission has been instituted by supreme order on December 17, 1903, with the ministry of the interior, in view of generally revising the passport regulations actually in force.

The imperial ministry of foreign affairs having appointed a representative with this commission, I shall not fail to bring, through his intermediary, to the knowledge of that commission your views on the subject and the desire of the Federal Government of which your excellency has been the interpreter.

I avail, etc.

LAMSDORFF.

(Foreign Relations 1904, p. 793.)

Nothing further was done in Congress until 1908, when Mr. Goldfogle introduced the following:

"[H. Res. 223. Sixtieth Congress, first session, Feb. 4, 1908.]

"*Resolved*, That the Secretary of State be, and he hereby is, requested to communicate to this House, if not incompatible with the public interests, the correspondence relating to negotiations with the Russian Government concerning American passports since the adoption of the resolution by the House of Representatives relating to that subject on the twenty-first day of April, nineteen hundred and four; and also a copy of the circular letter issued by the Department of State to American citizens advising them that upon the Department receiving satisfactory information that they did not intend to go to Russian territory, or that they had permission from the Russian Government to return, their application for passport would be reconsidered; and also a copy of the notice accompanying such letter issued by the Department of State, dated May twenty-eighth, nineteen hundred and seven."

This was referred to the Committee on Foreign Affairs, which reported on February 11, through Mr. A. B. Capron, of Rhode Island. It was discussed by Representatives F. B. Harrison, of New York, who favored its passage, and by Representative F. O. Lowden, of Illinois, who opposed it, and by a vote of 120 yeas to 101 nays the resolution was, on motion made by Mr. Capron, laid on the table. This action was taken at the instance of Secretary of State Root, who, on February 8, had written to Mr. Capron, "it is not deemed compatible with the best public interests at this time to communicate the subsequent correspondence."

On January 18, 1909, Mr. Goldfogle introduced the following joint resolution; which was referred to the Committee on Foreign Affairs and ordered to be printed:

[H. J. Res. 235. Sixtieth Congress, second session.]

"Concerning and relating to the treaty between the United States and Russia.

"Whereas in the treaty between the United States of America and the Government of Russia it is provided that the inhabitants of the respective countries shall mutually have the liberty of entering, sojourning, and residing in all ports of the respective territories of each other, and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside; and

"Whereas the Government of Russia refused from time to time to recognize or honor the passports of the United States issued to and held by American citizens, on account that such citizens were of Jewish faith, and refused to permit the holders of such passports to sojourn or enter in the territory or the domain of the Russian Government solely on account of and because of their said religious faith; and

"Whereas after the Government of Russia persistently refused to visé American passports held by law-abiding American citizens, placing its refusal upon the ground that the holders of such passports were of Jewish faith, the House of Representatives of the United States of America, on the twenty-first day of April, nineteen hundred and four, adopted a resolution in the following words:

"'*Resolved*, That the President be requested to renew negotiations with the Governments of countries where discrimination is made between American citizens on the ground of religious faith or belief to secure, by treaty or otherwise, uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States, in order that all American citizens shall have equal freedom of travel and sojourn in those countries without regard to race, creed, or religious faith'; and

"Whereas after the passage of such resolution, and in the year nineteen hundred and four, this Government duly communicated such resolution to the Russian Government, and then sought to secure from the Government of Russia such action as would end the discrimination made by Russia between different classes of American citizens on account of their religious faith in the honoring of American passports, to the end that all American citizens holding our passports should have equal freedom of travel and sojourn without regard to race, creed, or religious faith; and

"Whereas the Government of Russia has persistently continued up to the present time to refuse to visé, recognize, or honor passports presented to its authorities issued by the American Government to American citizens on the ground that the holders thereof were of the Jewish faith: Therefore be it

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and is hereby, directed to renew negotiations with the Government of Russia to secure, by treaty or otherwise, uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States, in order that all

American citizens shall have equal freedom of travel and sojourn in such country without regard to race, creed, or religious faith, and to demand and insist that the honoring or viséing of passports when duly issued and held by citizens of the United States shall not be withheld because or on account of the race, creed, or religious faith of their holders.

"SEC. 2. That a copy of these resolutions be transmitted to the Russian Government with such demand and insistence, and that upon the failure of the Russian Government to abide by its treaty obligations with the Government of the United States, and to comply with said demand, the President of the United States shall give notice under and pursuant to article twelve of the treaty between the United States and the Emperor of all the Russias, ratified on the eleventh day of May, in the year eighteen hundred and thirty-three, of the intention of the United States to arrest the operation of said treaty, and thereupon, pursuant to such official notification and at the period fixed after giving such official notification under said article twelve, the said treaty and convention between the United States and Russia shall be deemed ended and determined."

This resolution was amended by the Committee on Foreign Affairs to read as follows:

"Whereas it is alleged that the Government of Russia has continued up to the present time to refuse to visé, recognize, or honor passports presented to its authorities issued by the American Government to American citizens on the ground that the holders thereof were of the Jewish faith: Therefore be it

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and is hereby, directed to renew negotiations with the Government of Russia to secure, by treaty or otherwise, uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States, in order that all American citizens shall have equal freedom of travel and sojourn in such country without regard to race, creed, or religious faith, including a provision that the honoring or viséing of passports when duly issued and held by citizens of the United States shall not be withheld because or on account of the race, creed, or religious faith of their holders."

It was reported to the House on February 15, and on February 27 Representative A. J. Sabath, of Illinois, made a speech favoring the passage of the resolution as originally introduced. On March 1 the resolution, as amended by the Committee on Foreign Affairs, was discussed by Messrs. Goldfogle, Harrison, and Parsons, of New York, and Hitchcock, of Nebraska, and passed. It passed the Senate on March 3 and was signed by the President on the next day.[1]

Though the additional data given below do not come strictly within the purview of this article, they are of significance as showing the trend of American opinion on the subject, and are therefore inserted in order to complete the record.

In September, 1905, at the conclusion of the peace negotiations between Japan and Russia, President Roosevelt wrote to Count Witte as follows:

OYSTER BAY, N. Y., *September 10, 1905.*

MY DEAR MR. WITTE: I beg you to accept the accompanying photograph with my hearty regards.

I thank you heartily for the message you gave me from His Majesty announcing his generous purpose of interpreting the most-favored-nation clause hereafter so that America shall stand on an equality with other powers in this regard.

Will you, I pray, present to His Majesty my warm acknowledgments for this act?

In furtherance of our conversation of last evening I beg you to consider the question of granting passports to reputable American citizens of Jewish faith. I feel that if this could be done it would remove the last cause of irritation between the two nations whose historic friendship for one another I wish to do my best to maintain. You could always refuse to give a passport to any American citizen, Jew or Gentile, unless you were thoroughly satisfied that no detriment would come to Russia in granting it. But if your Government could only see its way clear to allowing reputable American citizens of Jewish faith, as to whose intentions they are satisfied, to come to Russia, just as you do reputable American Christians, I feel that it would be from every standpoint most fortunate.

Again assuring you of my high regard, and renewing my congratulations to you and to your country upon the peace that has been obtained, believe me,

Sincerely, yours,

THEODORE ROOSEVELT.

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[1] For resolutions of 1911 see pp. 256–257 *supra*.

International Law and the Discriminations Practiced by Russia Under the Treaty of 1832, by Arthur K. Kuhn.[1]

Article I of the treaty with Russia, concluded December 18, 1832, provides:

"There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce." (U. S. Treaties in Force, 1904, p. 660.)

The Government of Russia has taken the position that a treaty of commerce and intercourse, such as that of 1832 with the United States, grants no greater rights to citizens of the United States than is accorded to Russian citizens of the same "class" in Russia. Accordingly, a citizen, whether native born or naturalized, professing the Jewish faith, is denied a right of entry upon the sole ground that Russian subjects of the same faith are likewise denied the privilege of free ingress, egress, and residence in Russia.

The most meager reflection leads inevitably to the conclusion that if this contention were permitted to prevail as a guiding principle of international relations, not a single treaty in force with reference to the protection of the rights of citizens of one country within the territory of another could be deemed any longer the source of any definite rights or privileges. However definite might be the right or privilege granted by treaty to the citizens of a foreign state, it could be rendered nugatory simply by denying the right or privilege to native citizens.

The acceptance of any such principle would revolutionize the relations of states upon the basis of conventions, and would extend the class distinctions made in one nation, beyond the borders of that nation, to the territory of every other nation with which it had treaty relations affecting aliens.

Russia first asserted the theory in 1862 in its diplomatic correspondence with Lord Russell, representing the British foreign department. No report of this correspondence is to be found in the published record of British State Papers, but it is referred to, however, in the correspondence which passed in 1880 with reference to the case of Lewisohn, a British subject of Jewish faith, who was expelled simply by reason of the creed which he professed. Lord Granville at first took a vigorous stand against any discrimination, writing to the British ambassador that "The treaty between this country (Great Britain) and Russia of the 12th January, 1859, applies to all Her Majesty's subjects alike, without distinction of creed." (British State Papers, vol. 73, p. 833.)

For some reason, which does not clearly appear, Lord Granville afterwards surrendered his position in the matter and followed the precedent of 1862 and insisted only that British subjects should be placed on the same footing as Russian subjects of the same "class." He did not admit the correctness of the principle as a guide for the interpretation of the treaty; he simply did not desire to overrule his predecessor. Indeed, he clearly enunciated the choice of principle which was involved, for he says: "The treaty is no doubt open to two possible constructions: The one, that it only assures to British subjects of any particular creed the same privileges as are enjoyed by Russian subjects of the same creed; the other, that the privileges are accorded to all alike without regard to the religious body to which they belong." (British State Papers, vol. 73, p. 845.) It has since become apparent that diplomatic considerations induced Great Britain to refrain from insisting on the construction of the treaty which she herself deemed correct.

In striking contrast to the weak position finally taken by the British Government upon this question, prompted probably by considerations of policy and expediency rather than of international legal justice, was the attitude taken at the same time by the United States with reference to the same contention. The reporter of the British State Papers has included in the report of the correspondence in the Lewisohn case an abstract of the correspondence passing between our Secretary of State, William M. Evarts, and Minister John W. Foster, in 1880, with reference to the attempted expulsion of Henry Pinkos, an American citizen of Jewish faith. In Mr. Evarts's letter of June 28, 1880, he said:

[1] Prepared by request for the board of delegates on civil rights of the Union of American Hebrew Congregations and the Independent Order B'nai B'rith. Mr. Kuhn is a member of the New York bar, is translator of Meili's International Civil and Commercial Law, and American editor of Burge's Colonial and Foreign Law, and sometime lecturer on private international law at Columbia University, New York.

"In reply I have to observe that in the presence of this fact, that an American citizen has been ordered to leave Russia on no other ground than that he is the professor of a particular creed, or the holder of certain religious views, it becomes the duty of the Government of the United States, which impartially seeks to protect all its citizens of whatever origin or faith, solemnly, but with all respect to the Government of His Majesty, to protest. As this order of expulsion applies to all foreign Jews, in certain towns or localities, at least, of Russia, it is of course apparent that the same is not directed especially against the Government of which Mr. Pinkos is a citizen, and, indeed, the long-standing amity which has united the interests of Russia with those of this Government would of itself forbid a remote supposition that such might be the case. Notwithstanding this aspect of the matter, the United States could not fail to look upon the expulsion of one of its citizens from Russia, on the simple ground of his religious ideas or convictions, except as a grievance, akin to that which Russia would doubtless find in the expulsion of one of her own citizens from the United States on the ground of his attachment to the faith of his fathers." (Foreign Relations of the United States, 1880, p. 876.)

While the correspondence with reference to the attempted expulsion of Pinkos was proceeding, Pinkos left Russia with his family, because "he had made up his mind that Russia was no place for one of his creed, and that he proposed to establish himself in Liverpool or return to the United States." Notwithstanding this fact, Mr. Evarts had determined not to let the matter rest. No true American can read his final letter of instructions, dated September 4, 1880, without strong sentiments of pride and satisfaction at the brave, as well as just, position assumed by our Secretary. The letter so clearly sets forth the true interests and traditional policy of the United States with reference to the protection of its citizens in foreign countries that it will be well to the purpose to quote his letter in full (Foreign Relations of the United States, 1880, p. 880):

DEPARTMENT OF STATE,
Washington, September 4, 1880.

SIR: I have to acknowledge receipt of Mr. Hoffman's No. 23 of the 11th ultimo in the Pinkos case.

Notwithstanding the tenor of your No. 9 and of your note to the department of July 24th last, as to the inexpediency of presently appealing to the Government of the Czar in the sense of the instruction of June 28th last, touching the expulsion of citizens of the United States from Russia (or certain cities thereof) by reason of their religious convictions, the statements of Mr. Hoffman's No. 23, of August 11th last, are such that the Government of the United States would seem indifferent to the cause of its citizens in Russia did it neglect to make immediate remonstrance as set forth in said instruction of June 28th. Mr. Hoffman's inference from the facts connected with Mr. Pinkos' departure from Russia is that Mr. Pinkos had made up his mind that Russia "was no place for one of his creed."

If the meaning of this is that a citizen of the United States has been broken up in his business at St. Petersburg simply for the reason that he is a Jew rather than a believer in any other creed, then it is certainly time for this Government to express itself as set forth in the instruction above mentioned. It should be made clear to the Government of Russia that in the view of this Government the religion professed by one of its citizens has no relation whatever to that citizen's right to the protection of the United States, and that in the eye of this Government an injury officially dealt to Mr. Pinkos in St. Petersburg on the sole ground that he is a Jew presents the same aspect that an injury officially done to a citizen of Russia in New York for the reason that he attends any particular church there would to the view of His Majesty's Government.

It is evident that the losses incurred by the abandonment of his business in St. Petersburg will afford Mr. Pinkos ground for reclamation, if no other cause can be shown for the official breaking up of his said business than the religious views he entertained.

The direct application to have Mr. Pinkos indemnified, however, may be deferred until he shall make it appear what those losses were.

I am, sir, etc.,

WM. M. EVARTS.

The policy thus established was ably supported and reasserted by Mr. Blaine. In a letter dated July 29, 1881, to Mr. Foster, he reviewed the treatment of alien Jews in Russia since the reign of the Empress Catherine and disposed of the contention made by Russia in the following terms (Foreign Relation of the United States, 1881, p. 1033):

"These question of the conflict of local law and international treaty stipulations are among the most common which have engaged the attention of publicists, and it is their concurrent judgment that where a treaty creates a privilege for aliens in express terms it can not be limited by the operation of domestic law without a serious breach of the good faith which governs the intercourse of nations. So long as such a conventional engagement in favor of the citizens of another State exists, the law governing natives in like cases is manifestly inapplicable."

The State Department has consistently refused to accept the principle now contended for by Russia, not only in our diplomatic relations with that country, but also with other countries as well.

Prior to the constitution of Switzerland of 1874, under which religious equality is now guaranteed as effectually as in the United States, subjects of Jewish faith were prohibited from establishing themselves in certain Cantons and were under heavy disabilities in others. Representations were made to Switzerland by several European countries, as well as by the United States, in reply to which these Cantons maintained the right to impose the same disabilities on subjects of foreign nations with which Switzerland had concluded treaties of friendship, commerce, and intercourse as were imposed on natives of the same class in Switzerland. In opposition to this contention, Mr. Seward, our Secretary of State, entered into a voluminous correspondence with Mr. Fay, the American representative in Switzerland, instructing him to insist upon the rights of American Jews notwithstanding the disabilities under which the particular Cantons had placed Jews of Swiss origin.

It must be recalled that the treaty under which the Swiss Cantons had maintained their contention was couched in language much more favorable to their position than anything contained in the treaty of 1832 with Russia. The treaty with Switzerland of 1855 had been, at the time of its adoption by the Senate, the subject of opposition by President Fillmore. In his message transmitting the treaty to the Senate, he objected seriously to the form in which it was presented and said:

"On account of the tenor of the Federal Constitution of Switzerland, Christians alone are entitled to the enjoyment of the privileges guaranteed by the present article in the Swiss Cantons. But said Cantons are not prohibited from extending the same privileges to citizens of the United States of other religious persuasions.

"It is quite certain that neither by law, nor by treaty, nor by any other official proceeding is it competent for the Government of the United States to establish any distinction between its citizens founded on differences in religious beliefs. Any benefit or privilege conferred by law or treaty on one must be common to all, and we are not at liberty, on a question of such vital interest and plain constitutional duty, to consider whether the particular case is one in which substantial inconvenience or injustice might ensue. It is enough that an inequality would be sanctioned hostile to the institutions of the United States and inconsistent with the Constitution and the laws.

"Nor can the Government of the United States rely on the individual Cantons of Switzerland for extending the same privileges to other citizens of the United States as this article extends to Christians. It is indispensable not only that every privilege granted to any of the citizens of the United States should be granted to all, but also that the grant of such privilege should stand upon the same stipulation and assurance by the whole Swiss Confederation as those of other articles of the convention." (Richardson's Messages and Papers of the Presidents, Vol. V, p. 98.)

In the form in which Article I of the treaty was finally ratified the objection of President Fillmore was only partially met. It reads as follows:

"The citizens of the United States of America and the citizens of Switzerland shall be admitted and treated upon a footing of reciprocal equality in the two countries, where such admission and treatment shall not conflict with the constitutional or legal provisions, as well Federal as State and Cantonal of the contracting parties." Then follow the provisions relating to free establishment, exercise of commerce, etc. (United States Treaties in Force, 1904, p. 769.)

Mr. Fay, under instructions from the Secretary of State, left no stone unturned to obtain for American citizens of the Jewish faith the same rights and privileges as were accorded to American citizens generally, and personally prepared a petition addressed to the various Cantons of Switzerland in behalf of his contention. This petition was translated into French and German and widely circulated throughout Switzerland. It was reported as an executive document. (No. 76, 36th Cong., 1st sess., vol. 12, p. 67.) It is not necessary to refer to it at length inasmuch as Mr. Fay was prevented from relying upon the strictly legal rights of the United States because of the peculiar limitations which it contained. The entire incident is made the subject of a special paper read before the American Jewish Historical Society by Mr. S. M. Strook in 1903, "Switzerland and the American Jews." (Publications of the American Jewish Historical Society, 1903, p. 7.)

It is sufficient to say that Mr. Seward continued throughout to demand the removal of discriminations made on account of religious faith, notwithstanding the unfavorable language of the treaty of 1855. He continued his instructions along this line to Mr. Fay's successor, Mr. Fogg, who cooperated with the French Government. France at that time was particularly energetic in demanding full treaty rights to its citizens of Jewish faith. In 1851 Louis Napoleon, through the French minister at Berne, sent a note in which he stated that France would expel all Swiss citizens established in France in case the two Cantons (Basle city and county) would insist on carrying out their law prohibiting the establishment of French citizens of the Jewish faith on their territory. (Allgemeine Zeitung des Judenthums, Dec. 15, 1851; Jan. 1, 1852; S. M. Strook, op. cit., pp. 12–13.) The matter was finally referred to a commission of the Senate of the Second Empire and in 1864 a report was made through the chairman of the commission, Ferdinand de Lesseps, in the following terms:

"No distinction may be recognized in the enjoyment of civil and political rights between a French Jew and a French Catholic or Protestant. This equality of rights must also follow a citizen beyond the frontier; and the principles of our Constitution do not authorize the Government to protect its subjects in a different manner according to which faith he professes." (See Débats Parlementaires, 1909, p. 3779.)

As a result of this movement, the French Government finally repudiated the prior treaties which were unsatisfactory in failing to guarantee equal treatment to all French citizens, and a new treaty was obtained from Switzerland in which such a guaranty was expressly made by recognizing "the right of French subjects, without distinction of faith or worship, to travel, sojourn, and transact all lawful business, as freely as Swiss Christian residents of other Cantons may do." (Foreign Relations of the United States, 1864, p. 401.)

The victory which French diplomacy had won over the illiberalism of the Swiss Cantons solved the problem of the United States Government as well. In reporting upon the result of the ratification of the French treaty, the United States minister, Mr. Fogg, wrote to Mr. Seward, as follows:

"The treaty just ratified secures, it is true, only the rights of French Jews, but it will be followed by treaties with other powers, and must, in the end, enfranchise the whole race, since the Swiss authorities having taken the first step in a movement so obviously just, and so imperatively demanded by the spirit of the age and their own position as the vanguard of liberty in Europe, they can not recede, but must go forward." (Foreign Relations of the United States, 1864, p. 402.)

The correspondence of the Department of State with other countries besides Russia discloses a consistent policy against permitting local discriminations in foreign countries to operate unfavorably upon our citizens because of religious belief. Thus, in 1897, an application was addressed by the United States consul at Jerusalem to the Turkish officials in charge of the land department there for permission on behalf of one Lowenstein, a United States citizen, to purchase a small property consisting of a house and some land. The application was denied on the ground that Lowenstein was a Jew, and, under Ottoman law, prohibited from holding land. Under the sanction of Mr. Sherman, United States Secretary of State, a remonstrance was addressed to the Sublime Porte and a nullification of the order was demanded:

"If an American citizen be denied the right to acquire real estate in this Empire on the ground that he is alleged to be of a certain religious faith, the duty of the minister to his Government would require him to protest against such discrimination as inadmissible. Equal rights under reaties are claimed for all American citizens, regardless of the faith they profess." (Mr. Angell, United States minister, to Turkish minister of Foreign Affairs, Foreign Relations of the United States, 1898, p. 1104.)

The action of Mr. Angell was approved by the Department of State, and Mr. Sherman afterwards expressed his gratification at the result of the remonstrance. (Ibid.)

The United States has heretofore insisted upon the treaty rights of its citizens, irrespective of discriminations in foreign countries made not only on account of religion, but also on account of race or color. Thus, in June, 1882, Mr. Frelinghuysen, our Secretary of State, in writing to Mr. Hamlin, minister to Spain, called attention to the fact that the Spanish consul general at New York had refused to visé the American passport of a colored citizen of the United States on the ground of his color. It seems that the refusal to visé was arbitrary, and the visé was ordered to be granted by the Spanish Government. The Secretary of State nevertheless took occasion to remark that there would be no good reason why a negro resorting to Cuba bearing a passport as an American citizen should be refused admission or be met by legal prohibitive measures such as depositing large sums as a guaranty. He afterwards stated that if a case should be brought to his notice the department would remonstrate against it "as imposing a race discrimination not affected by treaty or recognizable under the amended Constitution." (Moore, International Law Digest, vol. 4, p. 109, quoting from MSS. Inst. Spain XIX, p. 139.)

The normal relation of states, especially under conditions of modern life, even in the absence of treaty, is one of free intercourse. This was recognized by Vattel as early as the seventeenth century, when he contrasts the condition of China and Japan with that of Europe, where "the access is everywhere free to every person who is not an enemy of the state." (Droit des Gens, I, ii, c. viii, s. 100.)

We would not wish to be understood as denying the theory of international law that in the absence of treaty each State has the right to exclude aliens from its soil. This right is commonly spoken of as one of the essential attributes of sovereignty. However, when rights of entry or residence have been extended by treaty to the subjects of a foreign nation, all the subjects of that nation are entitled to the benefit of the treaty, even though incidentally they receive greater privileges under it than native subjects.

There is not lacking substantial European authority for the principle that religious liberty may be predicated in favor of aliens on the basis of treaties. G. F. von Martens, the great German publicist and diplomatist, who made the law of treaties his special study, says (translating from his Precis du droit des gens, 2d ed., 1864, vol. 1, p. 121):

"The degree of liberty accorded to other religions than those of the particular state differs according to the fundamental laws and *treaties in effect with foreign powers* and, in default of them, it depends upon the will of each state guided by principles of a wise tolerance. This is true also with regard to the tolerance accorded religious sects which have no connection with the religion of the country, such as the Socinians, the Anabaptists, the Moravian Brethren, etc., and rarely any question arises in the foreign relations of European countries as to their rights, as well as those of the Jews."

Even Russian authority is in substantial accord. Prof. F. de Martens, late president of The Hague Peace Congress, and probably the most distinguished Russian authority of our generation on international law, seems to have been in substantial accord, although he may have been unwilling to effectuate the principle by application in practice. In his Traité de droit international (translated from the Russian into French by A. Leo, 1883, vol. 1, p. 447) he asserts that the state has complete power over aliens in its territory and the conditions on which it will admit them. It may not place them, however, beyond the protection of law, nor subject them to general expulsion. Any nation guilty of this would take itself outside of the community of nations. With this exception, even though the provisions be vexatious or completely different from those prevailing in any other state or countries, or inconsistent with a sane or wise political administration, "aliens must nevertheless conform to them, unless the provisions respecting them are in opposition to international treaties." In a footnote he points to the action of Lord Granville in refusing to insist upon greater rights for a British subject than accorded to Russian Jews in Russia, to which we have already referred at length. He naturally is well satisfied with the British submission to the Russian contention, though it is difficult to see how the footnote in any way illustrates the text. He seems to have considered it a clear departure and exception to the principle which he himself enunciates. In concluding this branch of his discussion he says (translating): "In reality each Government is free to take all measures against aliens which it deems convenient, provided thay do not violate its treaties and are not absolutely contrary to international relations."

As a matter of strict legal right, then, each nation may, in the absence of treaty, exclude aliens from its territory or prescribe the conditions upon which it will admit them. But as a matter of comity, friendly intercourse and good faith between nations of the international community, the situation is different. Hall well says (International Law, 5th ed., p. 214): "For the reason also that a State may do what it chooses within its own territory so long as its conduct is not actively injurious to other States, it must be granted that in strict law a country can refuse the hospitality of its soil to any, or all, foreigners; but the exercise of the right is necessarily tempered by the facts of modern civilization. For a State to exclude all foreigners would be to withdraw from the brotherhood of civilized peoples; to exclude any without reasonable or at least plausible cause is regarded as so vexatious and oppressive that a government is thought to have the right of interfering in favor of its subjects in cases where sufficient cause does not, in its judgment, exist."

Hannis Taylor has said that while no State can be compelled to open its doors to the citizens of another State, its power of refusing hospitality is subject: "To such retaliatory measures as an abuse of the excluding or expelling power may provoke." (International Public Law, p. 231.)

If such be the trend of modern international law even in the absence of treaty, then surely the Russian treaty should be liberally and not strictly construed. Russia pursues a policy and practice of general exclusion against particular classes of United States citizens solely on account of their religious beliefs, no matter how high their

character and reputation may be and irrespective of whether they are by any reasonable construction detrimental to the interests of Russia. In the light of the tendencies of modern international relations, this constitutes a clear indication that the treaty of 1832 is not being construed by Russia according to that standard of ubberima fides which one friendly nation owes to another in the performance of its conventions.

It is sometimes suggested that the policy of the United States in excluding the Chinese constitutes an argument in opposition to the position which we are here urging. Without wishing at this time to discuss the justice or expediency of the Chinese exclusion acts in their present state, it is sufficient for the purpose of the present discussion to recall that the exclusion acts required a modification of our treaty relations with the Chinese Empire on more than one occasion. Twice did Congress attempt to pass bills which under a fair interpretation might have been deemed inconsistent with the obligations under the treaty and twice were such bills vetoed by the President. President Hayes vetoed the bill of 1879 as in contravention of the provisions of the Burlingame treaty, and President Arthur likewise vetoed the bill of 1882 which he termed "a breach of our international faith," because in violation of the treaty of 1880. (Richardson, Messages and Papers of the Presidents, Vol. VII, p. 514; Vol. VIII, p. 112.)

Since that time successive acts have been accompanied by such new diplomatic arrangements with China as were necessary in order to protect the faith of the United States, notably among which was the treaty of December 8, 1894, by which China consented to the absolute exclusion of Chinese laborers.

The denunciation of a treaty is justified where one of the parties has been guilty of a substantial breach, or has so interpreted it that the rights and privileges granted under it are enjoyed by one side, while the complete performance of its obligations is rendered only by the other. (Hall, International Law, p. 352.) Even if we concede the legal contention made by Russia, the treaty should nevertheless be denounced by the one year's notice provided for in the treaty itself (Art. XII). At the time it was passed, Russia's attitude toward native as well as alien Jews was favorable and very different from that of the past half century. The treaty was not drawn in contemplation of any of the discriminations which are now practiced under it. If the treaty does warrant the interpretations now placed upon its language by Russia (which we earnestly deny), it commits the United States to a doctrine which is expressly prohibited under its Constitution, its statutes, its fundamental institutions, and its historic diplomatic policy.

Furthermore, if distinctions of race or creed are permitted to enter into the status of our citizenship in foreign countries in respect of rights and privileges, it is inevitable that distinctions will likewise arise on the side of duties and obligations. The relationship of allegiance between the citizen and state is a mutual one. Thus, for example, a treaty of amity and friendship between two nations is binding upon all citizens and no distinctions among them ought to be or is permissible. Any citizen who violates his duty of neutrality subjects himself not only to the loss of his right to protection, but also to affirmative penalties. The Supreme Court has said, in Kennett *v.* Chambers (14 How., 38):

"For, as sovereignty resides in the people, every citizen is a portion of it * * * and when that authority has plighted its faith to another nation that there shall be peace and friendship between the citizens of the two countries, every citizen of the United States is equally and personally pledged."

If every citizen is to be "equally and personally" pledged to abide by a treaty of amity and friendship, every citizen should likewise be "equally and personally" benefited without discrimination under treaties relating to the citizens of his country.

The treaty thus involves fundamental danger to the equality involved in republican institutions. It is for that reason that France is likewise awake to the distinction which Russia has endeavored to import into French citizenship upon the basis of the treaty of 1874 between France and Russia, notwithstanding the plain terms of the convention of 1905, which provides that "no distinction shall be made, whatever be the religion." On December 27, 1909, a full discussion of these discriminations practiced by Russia took place in the French Chamber of Deputies. Mention was made of the incident between France and Switzerland during the Second Empire, to which we have already referred, as well as to a precedent which occurred shortly after the Congress of Vienna of 1815. Austria undertook to treat Ottoman Jews differently from other Ottoman subjects because she treated her own Jews differently from her other subjects. The Sublime Porte protested that she could not permit of the slightest difference being made between any Turkish subjects, no matter what their creed, and in September, 1815, M. de Metternich gave Turkey satisfaction, and thenceforward all Turkish subjects were treated alike.

At the conclusion of the debate, the Chamber of Deputies called upon the administration to undertake negotiations with Russia for an interpretation which would definitely set aside the objectionable discriminations. (Débats parlementaires, 1909, pp. 3763–3780; Am. Jewish Year Book for 1911, pp. 66–76.)

It is dangerous to temporize in respect of legal principle with class, race, or religious discriminations. The United States, after a along and bitter struggle, has happily extirpated from the body of its organic law all such discriminations affecting its citizens. Such discriminations should not be permitted to enter by the back door, as it were, through weakness or vacillation in the enforcement of the rights of citizens in international relations.

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